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# ***NORTH CAROLINA REGISTER***

**VOLUME 12 • ISSUE 4 • Pages 227 - 333  
August 15, 1997**


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Environment, Health, and Natural Resources  
General Contractors, Licensing Board for  
Housing Finance Agency  
Human Resources  
Justice  
Medical Board  
Transportation  
Rules Review Commission  
Contested Case Decisions

## **PUBLISHED BY**

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# NORTH CAROLINA REGISTER



**Volume 12, Issue 4**  
**Pages 227 - 333**

**August 15, 1997**

This issue contains documents officially filed  
through July 25, 1997.

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# NORTH CAROLINA REGISTER

## Publication Schedule

(August 1997 - May 1998)

FILING DEADLINES			NOTICE OF RULE-MAKING PROCEEDINGS		NOTICE OF TEXT (either column A or column B)						
volume and issue number	issue date	last day for filing	end of comment period	earliest register issue for publication of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact		
						end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next RRC meeting	first legislative day of the next regular session
12:03	08/01/97	07/11/97	09/30/97	10/01/97	08/18/97	09/02/97	09/22/97	05/11/98	09/30/97	10/20/97	05/11/98
12:04	08/15/97	07/25/97	10/14/97	10/15/97	09/02/97	09/15/97	09/22/97	05/11/98	10/14/97	10/20/97	05/11/98
12:05	09/02/97	08/12/97	11/03/97	11/14/97	09/17/97	10/02/97	10/20/97	05/11/98	11/03/97	11/20/97	05/11/98
12:06	09/15/97	08/22/97	11/14/97	12/01/97	09/30/97	10/15/97	10/20/97	05/11/98	11/14/97	11/20/97	05/11/98
12:07	10/01/97	09/10/97	12/01/97	12/15/97	10/16/97	10/31/97	11/20/97	05/11/98	12/01/97	12/22/97	05/11/98
12:08	10/15/97	09/24/97	12/15/97	01/02/98	10/30/97	11/14/97	11/20/97	05/11/98	12/15/97	12/22/97	05/11/98
12:09	11/03/97	10/13/97	01/02/98	01/15/98	11/18/97	12/03/97	12/22/97	05/11/98	01/02/98	01/20/98	05/11/98
12:10	11/14/97	10/23/97	01/13/98	01/15/98	12/01/97	12/15/97	12/22/97	05/11/98	01/13/98	01/20/98	05/11/98
12:11	12/01/97	11/05/97	01/30/98	02/02/98	12/16/97	12/31/97	01/20/98	05/11/98	01/30/98	02/20/98	05/11/98
12:12	12/15/97	11/20/97	02/13/98	02/16/98	12/30/97	01/14/98	01/20/98	05/11/98	02/13/98	02/20/98	05/11/98
12:13	01/02/98	12/08/97	03/03/98	03/16/98	01/20/98	02/02/98	02/20/98	05/11/98	03/03/98	03/20/98	05/11/98
12:14	01/15/98	12/19/97	03/16/98	04/01/98	01/30/98	02/16/98	02/20/98	05/11/98	03/16/98	03/20/98	05/11/98
12:15	02/02/98	01/09/98	04/03/98	04/15/98	02/17/98	03/04/98	03/20/98	05/11/98	04/03/98	04/20/98	01/27/99
12:16	02/16/98	01/26/98	04/17/98	05/01/98	03/03/98	03/18/98	03/20/98	05/11/98	04/17/98	04/20/98	01/27/99
12:17	03/02/98	02/09/98	05/01/98	05/15/98	03/17/98	04/01/98	04/20/98	01/27/99	05/01/98	05/20/98	01/27/99
12:18	03/16/98	02/23/98	05/15/98	06/01/98	03/31/98	04/15/98	04/20/98	01/27/99	05/15/98	05/20/98	01/27/99
12:19	04/01/98	03/11/98	06/01/98	06/16/98	04/16/98	05/01/98	05/20/98	01/27/99	06/01/98	06/22/98	01/27/99
12:20	04/15/98	03/24/98	06/15/98	07/01/98	04/30/98	05/15/98	05/20/98	01/27/99	06/15/98	06/22/98	01/27/99
12:21	05/01/98	04/09/98	06/30/98	07/01/98	05/18/98	06/01/98	06/22/98	01/27/99	06/30/98	07/20/98	01/27/99
12:22	05/15/98	04/24/98	07/14/98	07/15/98	06/01/98	06/15/98	06/22/98	01/27/99	07/14/98	07/20/98	01/27/99

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <p>(1) temporary rules;</p> <p>(2) notices of rule-making proceedings;</p> <p>(3) text of proposed rules;</p> <p>(4) text of permanent rules approved by the Rules Review Commission;</p> <p>(5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;</p> <p>(6) Executive Orders of the Governor;</p> <p>(7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;</p> <p>(8) orders of the Tax Review Board issued under G.S. 105-241.2; and</p> <p>(9) other information the Codifier of Rules determines to be helpful to the public.</p>	<p><b>ISSUE DATE:</b> The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p> <p><b>LAST DAY FOR FILING:</b> The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p><b>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS:</b> This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p><b>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT:</b> The date of the next issue following the end of the comment period.</p>	<p><b>EARLIEST DATE FOR PUBLIC HEARING:</b> The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p><b>END OF REQUIRED COMMENT PERIOD</b></p> <p>(1) <b>RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</p> <p>(2) <b>RULE WITH SUBSTANTIAL ECONOMIC IMPACT:</b> An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p>
			<p><b>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:</b> The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p>
<p><b>COMPUTING TIME:</b> In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.</p>			<p><b>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:</b> This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>

**EXECUTIVE ORDER NO. 116  
JUVENILE JUSTICE PLANNING COMMITTEE**

WHEREAS, the Executive Organization Act of 1973 established the Governor's Crime Commission; and,

WHEREAS, North Carolina General Statutes § 143B-480 creates the Juvenile Justice Planning Committee as an adjunct committee to advise the Governor's Crime Commission on matters referred to it which are relevant to juvenile justice; and,

WHEREAS, pursuant to North Carolina General Statutes § 143B-480, the composition of the Juvenile Justice Planning Committee shall be designated by the Governor through executive order; and,

WHEREAS, the federal Juvenile Justice and Delinquency Act of 1974, as amended, requires states to establish advisory boards to administer juvenile justice and delinquency prevention grants from the United States Department of Justice; and,

WHEREAS, the Juvenile Justice Planning Committee, which is also known as the Juvenile Justice and Delinquency Prevention Committee, is ideally suited to serve as such an advisory board consistent with federal law.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, **IT IS ORDERED:**

**Section 1. Membership Composition.**

The Juvenile Justice Planning Committee shall consist of no more than 33 members appointed by the Governor. The membership shall be consistent with all federal requirements regarding the composition of advisory boards which administer juvenile justice and prevention grants from the United States Department Of Justice. Terms of each member shall be two years as provided in North Carolina General Statutes § 143B-480; provided, however, that the Governor may remove any member at any time for misfeasance, malfeasance, or nonfeasance or if necessary to ensure continued compliance with federal requirements.

**Section 2. Chairman.**

The Chairman of the Juvenile Justice Planning Committee shall be designated by, and shall serve at the pleasure of, the Chairman of the Governor's Crime Commission.

**Section 3. Administration of Federal Grants.**

The Juvenile Justice Planning Committee shall serve as North Carolina's advisory board for purposes of administering juvenile justice and delinquency prevention grants from the United States Department of Justice.

**Section 4. Duration.**

This executive order shall be effective immediately and shall remain in effect until rescinded.

Done in the Capital City of Raleigh, North Carolina,  
this the 21st day of July.

STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Proposed assessment of Controlled Substance Excise  
tax for possession of non-tax-paid Controlled Substance  
on August 4, 1992 by the Secretary of Revenue against  
**JOHN B. MELVILLE, JR. and DAVID J. COLLINS**

REMAND HEARING OF  
**ADMINISTRATIVE**  
**DECISION NUMBER: 300**

THIS MATTER was heard by the Tax Review Board on remand from the initial determination of the Honorable George L. Wainwright, Superior Court Judge of Onslow County, North Carolina on April 22, 1997, in the City of Raleigh, Wake County, North Carolina in the office of the State Treasurer.

Chairman Harlan E. Boyles, State Treasurer presided over the hearing with Jo Anne Sanford, Chair, Utilities Commission and duly appointed member, Noel L. Allen, attorney at law participating.

Walter W. Vatcher and Charles K. Medlin, Jr., attorneys at law, appeared on behalf of the Taxpayers; Christopher E. Allen, Assistant Attorney General, appeared on behalf of the Department of Revenue.

On April 11, 1995, the Board conducted an administrative hearing based upon the petitions filed by John B. Melville, Jr and David J. Collins (hereinafter "Taxpayers") to review the final decision entered by the Assistant Secretary of Revenue on January 14, 1994. On July 10, 1995, the Board rendered its decision and confirmed the assessment of the controlled substance excise tax in the amount of \$79,380.00 but reversed the final decision of the Secretary regarding the penalty imposed against the Taxpayers and modified the assessment of the penalty to be applicable only to the net amount of the tax assessed remaining unpaid after the application of any amount received by the garnishment filed by the Department of Revenue.

On August 2, 1995, Taxpayers' filed a petition for judicial review of the Tax Review Board's Administrative Decision Number 300 with the Superior Court of Onslow County, North Carolina. On February 13, 1997, Judge Wainwright entered an initial determination pursuant to the authority of G.S. §150B-51. G.S. §150B-51(a) provides for the reviewing judge to determine whether the agency decision states the specific reasons why the agency did not adopt the [Assistant Secretary's] recommended decision. Judge Wainwright stated in the initial determination "[t]hat the Tax Review Board did not offer or state any specific reasons why it did not adopt the recommended decision. In modifying the recommended decision, the Tax Review Board did not reduce the assessment to a sum certain or the issue remains as to whether the language is capable of being reduced to a sum certain."

IT APPEARING TO THE BOARD upon review of this matter on remand that no specific reasons were offered to determine why the Assistant Secretary's final decision was not adopted;

AND IT FURTHER APPEARING TO THE BOARD after carefully considering the matters of record and the arguments presented at hearing on the remand and upon review of the judge's initial determination that the followings reasons are entered regarding why the recommended decision was not adopted in all respects:

1. The Department of Revenue attached and garnished bank accounts of the Taxpayers on the assessment date of August 4, 1992.
2. A penalty based upon the assessment against the Taxpayers would not accrue until 48 hours after the above referenced assessment date.
3. The Secretary of Revenue is therefore estopped from imposing a penalty based upon non-payment of the controlled substance excise tax to the extent that the Department of Revenue obtained a levy and garnishment against the Taxpayers securing payment of the tax prior to the time that the penalty would accrue.

Therefore, the Board determines that the total assessment due and payable by the Taxpayers in this matter for the period of August 4, 1992 be and is hereby \$79,380.00.



Entered this the 9<sup>th</sup> day of July, 1997.

TAX REVIEW BOARD

/s/Harlan E. Boyles, Chairman  
State Treasurer

/s/Jo Anne Sanford, Chair  
Utilities Commission

/s/Noel L. Allen, member

STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Proposed Assessment of Additional Income Tax  
for the taxable years of 1992, 1993 and 1994  
by the Secretary of Revenue against  
**Thomas P. May, Jr. and Sandra G. May**

**ADMINISTRATIVE  
DECISION NUMBER: 331**

THIS MATTER was heard before the Tax Review Board on Tuesday, April 22, 1997, in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer. It involved the petition for administrative review filed by Thomas P. May, Jr. and Sandra G. May (hereinafter "Taxpayers") from the Final Decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services (hereinafter "Assistant Secretary") entered on October 9, 1996, sustaining penalties proposed for late payment, late filing and underpayment of estimated income taxes for tax years 1992, 1993, and 1994.

Chairman Harlan E. Boyles, State Treasurer presided over the hearing with Jo Anne Sanford, Chair, Utilities Commission and duly appointed member, Noel L. Allen, Attorney at Law participating.

The Taxpayers did not appear at the hearing. George W. Boylan, Special Deputy Attorney General, appeared at the hearing on behalf of the Department of Revenue.

The issues presented on review were:

1. Whether the Secretary erred in sustaining the income tax assessments proposed against the Taxpayers for the taxable years 1992, 1993 and 1994.
2. Whether the proposed assessment should be withdrawn because the Department did not timely respond to Taxpayers' request for a hearing.

The scope of administrative review for petitions filed with the Tax Review Board is governed by G.S. §105-241.2(b2). G.S. §105-241.2 states in pertinent part:

(b2). ... "after conducting a hearing, the Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

After the hearing, the Board carefully reviewed the petition, the brief, the final decision and the record of the proceeding before the Assistant Secretary and upon review of the documents the Board determined that the findings of fact made by the Assistant Secretary were fully supported by competent evidence in the record, that the conclusions of law made by the Assistant Secretary were fully supported by the findings of fact, and that the decision of the Assistant Secretary was fully supported by the conclusions of law. Therefore, the Board determined that the Assistant Secretary did not err in sustaining the proposed assessment against the Taxpayers.

The Board further determined that the assessment may not be canceled simply because an administrative hearing was not timely provided to the Taxpayers. Effective January 1, 1994, G.S. §105-241.1(c) has directed the Department to furnish an administrative hearing within 90 days after the timely request for a hearing is filed by a taxpayer. Even though an affirmative duty is placed upon the Secretary to satisfy the statute's guidelines, the legislature specifically elected not to couple this requirement with sanctions. Furthermore, Taxpayers have failed to provide any evidence of bad faith on the part of Department regarding the delay in the hearing. Therefore the Board determined that the Assistant Secretary did not err in refusing to cancel the assessment because the hearing was not timely.

**IT IS THEREFORE ORDERED**, that the Final Decision of the Assistant Secretary is **CONFIRMED** in every respect.

Entered this the 8<sup>th</sup> day of July, 1997.

TAX REVIEW BOARD

/s/Harlan E. Boyles, Chairman

/s/Jo Anne Sanford, Chair  
Utilities Commission

/s/Noel L. Allen, member

STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Proposed assessment of Controlled Substance Excise  
tax for possession of non-tax-paid Controlled Substance  
on March 28, 1991 by the Secretary of Revenue against  
**MICHAEL ANTONIO GOODMAN**

**ADMINISTRATIVE  
DECISION NUMBER: 332**

THIS MATTER was heard before the Tax Review Board (hereinafter "Board") on Tuesday, April 22, 1997, in the City of Raleigh, Wake County, North Carolina in the office of the State Treasurer. It involved a petition for administrative review filed by Michael Antonio Goodman (hereinafter "Taxpayer") of the final decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services (hereinafter "Assistant Secretary") entered on October 24, 1996 sustaining a proposed assessment of controlled substance excise tax for possession of non-tax-paid controlled substance for the period of March 28, 1991.

Chairman Harlan E. Boyles, State Treasurer presided over the hearing with Jo Anne Sanford, Chair, Utilities Commission and duly appointed member, Noel A. Allen, Attorney at Law participating.

Taxpayer did not appear and was not represented by counsel at the hearing; Christopher E. Allen, Assistant Attorney General, appeared at the hearing on behalf of the Department of Revenue.

The purpose of this Board is to provide administrative review to a Taxpayer from the Secretary of Revenue's decision sustaining the assessment of tax or additional tax pursuant to North Carolina Revenue Laws. The scope of administrative review for petitions filed with the Board is governed by G.S. §105-241.2(b2). G.S. §105-241.2 states in pertinent part:

(b2). ... "after conducting a hearing under this section, the Board shall confirm, modify, reverse, reduce, or increase the assessment or decision of the Secretary."

In the Petition, Taxpayer's primary argument focused on the determination by the federal magistrate judge in the criminal proceeding. In that proceeding the judge ruled that the trooper's initial stop was unconstitutional. By ruling that the trooper's initial stop was unconstitutional, the judge granted Taxpayer's motion to suppress evidence that was obtained by the trooper in the search. Thus, the Taxpayer argued that the evidence obtained in the search is likewise excluded from the Secretary. The argument presented by the Taxpayer to the Board was not tendered to the Secretary of Revenue until after the deadline to submit briefs had expired. Therefore the Secretary based the final decision upon the record appearing at the time of the hearing.

Counsel for the Secretary addressed the exclusionary rule regarding illegal or tainted evidence in the brief submitted to the Board. In the brief counsel for the Secretary stated that generally the exclusionary rule does not operate to bar illegally or tainted evidence from civil proceedings. However, where the evidence is found to be invalid and excluded from criminal action, that evidence is properly excluded from a related civil administrative proceeding. *Turner v. Lawton, (Okla.) 733 P.2d 375, cert. den. 483 U.S. 1007, 97 L.Ed.2d 738, 107 S.Ct. 3232 (1987)*. In light of argument submitted to the Board in Taxpayer's Petition, counsel for the Secretary asked the Board to remand this matter to the Secretary for further findings of fact and reconsideration.

IT APPEARING TO THE BOARD upon review of the Petition and the Brief that there were apparent discrepancies in the record before the Secretary;

IT IS THEREFORE ORDERED, that the Taxpayer's case is **Remanded** to the Secretary for further findings of fact and reconsideration.

Entered this the 8<sup>th</sup> day of July, 1997.

TAX REVIEW BOARD

/s/Harlan E. Boyles, Chairman

/s/Jo Anne Sanford, Chair  
Utilities Commission

/s/Noel L. Allen, Member

STATE OF NORTH CAROLINA

BEFORE THE  
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Proposed assessment of Controlled Substance Excise  
tax for possession of non-tax-paid Controlled Substance  
on February 19, 1996 by the Secretary of Revenue against  
**DONNA TODD (DAWSON)**

**ADMINISTRATIVE  
DECISION NUMBER: 333**

THIS MATTER was heard before the Tax Review Board (hereinafter "Board") on Tuesday, April 22, 1997, in the City of Raleigh, Wake County, North Carolina in the office of the State Treasurer. It involved a petition for administrative review filed by Donna Todd (Dawson) (hereinafter "Taxpayer") of the Revised Final Decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services (hereinafter "Assistant Secretary") entered on July 26, 1996 sustaining a proposed assessment of controlled substance excise tax for possession of non-tax-paid controlled substance for the period of February 19, 1996.

Chairman Harlan E. Boyles, State Treasurer presided over the hearing with Jo Anne Sanford, Chair, Utilities Commission and duly appointed member, Noel A. Allen, Attorney at Law participating.

Taxpayer did not appear and was not represented by counsel at the hearing; Christopher E. Allen, Assistant Attorney General, appeared at the hearing on behalf of the Department of Revenue.

After conducting the hearing, the Board reviewed the petition, brief, revised Final Decision and the record of the matter in the proceeding before the Assistant Secretary. The dispositive issue before the Board was whether the Assistant Secretary erred in sustaining the controlled substance excise tax including the penalty and interest imposed against the Taxpayer. In the petition, the Taxpayer challenged the constitutionality of the statute under which the tax is assessed.

N.C.G.S. §105-113.105 et. seq. provides for the levy of an excise tax on persons (dealers) who possess a non-tax-paid controlled substance. The tax is due within 48 hours after the dealer acquires a non-tax-paid controlled substance. As a general rule, a proposed assessment of a tax is presumed to be correct pursuant to N.C.G.S. §105-241.1(a), thus the burden is on the Taxpayer to overcome the presumption and rebut the assessment.

The purpose of this Board is to provide administrative review to a Taxpayer from the Secretary of Revenue's decision sustaining the assessment of tax or additional tax pursuant to North Carolina Revenue Laws. The scope of administrative review for petitions filed with the Board is governed by N.C.G.S. §105-241.2(b2). N.C.G.S. §105-241.2 states in pertinent part:

(b2). ... "after conducting a hearing under this section, the Board shall confirm, modify, reverse, reduce, or increase the assessment or decision of the Secretary."

N.C.G.S. § 105-241.2 does not give this administrative board the authority or jurisdiction to rule on the constitutionality of a statute. *Great Am. Ins. Co. v. Gold*, 254 N.C. 168, 118 S.E.2d. 792 (1961).

THE BOARD HAVING REVIEWED THE PETITION AND RECORD MADE IN THIS PROCEEDING AND HAVING CAREFULLY CONSIDERED THE MATTERS OF RECORD AND THE ARGUMENTS PRESENTED RENDERED THE FOLLOWING DECISION: that the findings of fact made by the Assistant Secretary were fully supported by competent evidence in the record; that the conclusions of law made by the Assistant Secretary were fully supported by the findings of fact; and that the decision by the Assistant Secretary sustaining the tax assessment was fully supported by the conclusions of law.

IT IS THEREFORE ORDERED, that the Final Decision of the Assistant Secretary sustaining the assessment is **CONFIRMED**.

Since the Tax Review Board is not empowered to pass upon the constitutionality of a statute, or its application to a particular assessment or taxpayer, the Taxpayer's argument regarding the constitutionality of the statute was not properly before the Board.

Entered this the 8<sup>th</sup> day of July, 1997.

TAX REVIEW BOARD

/s/Harlan E. Boyles, Chairman

/s/Jo Anne Sanford, Chair  
Utilities Commission

/s/Noel L. Allen, Member

U.S. Department of Justice

Civil Rights Division

IKP:ZJB:JBG:TGL:emr  
DJ 166-012-3  
97-1403

*Voting Section*  
*P.O. Box 66128*  
*Washington, D.C. 20035-6128*

July 7, 1997

Richard J. Rose, Esq.  
Poyner & Spruill  
P. O. Box 353  
Rocky Mount, North Carolina 27802

Dear Mr. Rose:

This refers to the merger of the Town of Battleboro into the City of Rocky Mount as authorized by Chapter 578 (1996), the annexation of the Birchfield and Walkertown areas (adopted June 24, 1996) and the 1997 redistricting plan for the City of Rocky Mount in Edgecomb and Nash Counties, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on May 16, 1997.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Isabelle Katz Pinzler  
Acting Assistant Attorney General  
Civil Rights Division

By:

for Elizabeth Johnson  
Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

*Voting Section*

*P.O. Box 66128*

*Washington, D.C. 20035-6128*

IKP:DHH:KIF:gmh:lrj

DJ 166-012-3

97-1342

97-1761

July 8, 1997

Z. Creighton Brinson, Esq.  
Taylor, Brinson & DeLoatch  
P.O. Drawer 308  
Tarboro, North Carolina 27886-0308

Dear Mr. Brinson:

This refers to the creation of Edgecombe County Water and Sewer District No. 2 and the procedures for conducting the July 15, 1997, special bond election for the district in Edgecombe County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on May 9 and June 25, 1997.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Isabelle Katz Pinzler  
Acting Assistant Attorney General  
Civil Rights Division

By:

for Elizabeth Johnson  
Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

IKP:GS:SWJ:tlb  
DJ 166-012-3  
97-1442

*Voting Section*  
*P.O. Box 66128*  
*Washington, D.C. 20035-6128*

July 17, 1997

Donald I. McRee, Jr., Esq.  
County Attorney  
P.O. Box 39  
Elizabeth City, North Carolina 27907-0039

Dear Mr. McRee:

This refers to the realignment of voting precincts and Chapter 568 (1996), which authorizes, and the county's use of, the Votronic DRE Touch Screen Voting System for absentee voting for Pasquotank County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on May 19, 1997.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Isabelle Katz Pinzler  
Acting Assistant Attorney General  
Civil Rights Division

By:

Elizabeth Johnson  
for Chief, Voting Section

U.S. Department of Justice

Civil Rights Division

*Voting Section*

*P.O. Box 66128*

*Washington, D.C. 20035-6128*

IKP:DHH:KIF:emr  
DJ 166-012-3  
97-1495

July 17, 1997

Albert M. Benshoff, Esq.  
City Attorney  
P. O. Box 1388  
Lumberton, North Carolina 28359-1388

Dear Mr. Benshoff:

This refers to the annexation (Ordinance No. 1611 (1997)) and its designation to a district of the City of Lumberton in Robeson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on May 28, 1997.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Isabelle Katz Pinzler  
Acting Assistant Attorney General  
Civil Rights Division

By:

Elizabeth Johnson  
Chief, Voting Section

*An agency may choose to publish a rule-making agenda which serves as a notice of rule-making proceedings if the agenda includes the information required in a notice of rule-making proceedings. The agency must accept comments on the agenda for at least 60 days from the publication date. Statutory reference: G.S. 150B-21.2.*

**TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

This agenda will serve as the notice of rule-making proceedings for the following rule-making bodies from August 15, 1997 through October 14, 1997:

Environmental Management Commission - to rules codified in 15A NCAC 2;  
 Radiation Protection Commission - to rules codified in 15A NCAC 11; and  
 Commission for Health Services - to rules codified in 15A NCAC 18A.

**DEHNR Regulatory Agenda Index - July 25, 1997**

**AIR QUALITY**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2311	Acid Rain Procedures	15A NCAC 2Q .0400

**ENVIRONMENTAL HEALTH/ENV. HEALTH**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
H6793	Sanitation of Restaurants and other Food Handling Establishments	15A NCAC 18A .2601 - .2645

**RADIATION PROTECTION**

<u>APA #</u>	<u>SUBJECT</u>	<u>RULE CITATION #</u>
E2315	Radiation Protection	15A NCAC 11 .0100, .0300, .0400, .1100, .1400, .1600

**DEHNR Regulatory Agenda - July 25, 1997**

APA #: E2311

SUBJECT: Acid Rain Procedures  
 RULE CITATION #: 15A NCAC 2Q .0400  
 STATUTORY AUTHORITY: G.S. 143-215.3(a)(1); 143-215.107(a)(8); 143-215.108  
 DIVISION/SECTION: AIR QUALITY  
 DIVISION CONTACT: Thomas Allen  
 DIVISION CONTACT TEL#: (919)733-1489  
 DATE INITIATED: 6/20/97  
 DURATION OF RULE: Permanent  
 TYPE OF RULE:  
 STAGE OF DEVELOPMENT: Concept Stage  
 GOV LEVELS AFFECTED: None  
 REASON FOR ACTION :

To adopt the federal acid rain nitrogen oxides (NOx) emissions reduction program.

**SCOPE/NATURE/SUMMARY :**

Section 15A NCAC 2Q .0400, Acid Rain Procedures, would be amended to incorporate the federal procedures and requirements of 40 CFR Part 76, Acid Rain Program: Nitrogen Oxides Emission Reduction Program. Most likely the federal requirements will be adopted by reference.

40 CFR Part 76 limits emissions of nitrogen oxide emissions from coal-fired utility units to reduce acid rain. The rules that are being considered for incorporation into 15A NCAC 2Q .0400 can be found in 60 FR 18751 (April 13, 1995) and 61 FR 67112 (December 19, 1996). The first referenced Federal Register contains the originally adopted rules, and the second contains revisions to those rules. What will be considered for adoption are the rules in 40 CFR Part 76 as revised.

APA #: E2315

SUBJECT:

RULE CITATION #: 15A NCAC 11 .0100, .0300, .0400, .1100, .1400, .1600

STATUTORY AUTHORITY:

DIVISION/SECTION: RADIATION PROTECTION

DIVISION CONTACT: Wanda Shackelford

DIVISION CONTACT TEL#: (919)571-4141

DATE INITIATED: 6/27/97

DURATION OF RULE: Permanent 8/15/98

TYPE OF RULE:

STAGE OF DEVELOPMENT: Concept Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

The Radiation Protection Commission and the Division of Radiation are proposing rulemaking actions in Section .0100, .0300, .0400, .1100, .1400 and .1600. The Radiation Protection Commission also is undertaking with the Division an overall review of all of the rules in Chapter 11 of 15A NCAC within the next two years.

Sections .0100 and .0300 will require amendments and adoption for compatibility with the U. S. Nuclear Regulatory Commission's rules. Section .1600 became effective January 1, 1994 as a replacement for Section .0400. Section .0400 will now be repealed. Section .1100 addresses the fee structure for all registrants and licensees. Section .1400 which addresses the requirements for tanning facilities needs revision to improve these rules.

APA #: H6793

SUBJECT: Sanitation of Restaurants and other Food Handling Establishments

RULE CITATION #: 15A NCAC 18A .2601 - .2645

STATUTORY AUTHORITY: G.S. 130A - 248

DIVISION/SECTION: ENVIRONMENTAL HEALTH/ENV. HEALTH SERVICES

DIVISION CONTACT: Michael Rhodes

DIVISION CONTACT TEL#: (919)715-0930

DATE INITIATED: 7/24/97

DURATION OF RULE: Permanent 7/1/98

TYPE OF RULE:

STAGE OF DEVELOPMENT: Draft Rule Stage

GOV LEVELS AFFECTED: None

REASON FOR ACTION :

15A NCAC 18A .2600

"Rules Governing the Sanitation of Restaurants and Other Food Handling Establishments" are in need of additional definition and clarification. This additional definition and clarification is necessary to increase uniformity in interpretation and application of the rule on a statewide basis. Also, there is a need to include recommended changes from the 1997 Food and Drug Administration food code. Inclusion of several of the FDA recommended changes will help North Carolina stay abreast of the ever changing world of science and technology. These changes are needed to best protect the Public Health of the Citizens of North Carolina.

SCOPE/NATURE/SUMMARY :

15A NCAC 18A .2600

"Rules Governing the Sanitation of Restaurants and Other Food Handling Establishments" has a very broad scope pertaining to the Sanitation levels required for food safety and the protection of Public Health at Food handling establishments in North Carolina.

*A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.*

**TITLE 12 - DEPARTMENT OF JUSTICE**

**CHAPTER 10 - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION**

**N**otice of Rule-making Proceedings is hereby given by the NC Sheriffs' Education and Training Standards Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 12 NCAC 10B .0101, .0202, .0204, .0206, .0304, .0505, .0601, .0603, .0605, .0702, .0703, .0704, .0705, .0706, .0801, .0802, .0903, .0908, .0909, .0910, .0911, .1002, .1004, .1005, .1006, .1101, .1102, .1103, .1104, .1105, .1202, .1204, .1205, .1206. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 17-E

**Statement of the Subject Matter:**

**12 NCAC 10B .0101** - This Rule sets out the physical location and mailing address for the Sheriffs' Standards Commission.  
**12 NCAC 10B .0202** - This Rule sets out sanctions for violations of the Commission's rules by agencies or schools.  
**12 NCAC 10B .0204** - This Rule sets out the Commission's authority to suspend, revoke or deny the certification of an applicant or certified justice officer. This Rule sets out the Commission's authority to deny certification to an applicant if he has 4 or more Class A misdemeanors dated within 2 years of his date of appointment.  
**12 NCAC 10B .0206** - This Rule sets out the Commission's authority to issue summary suspensions or denials of justice officer certification.  
**12 NCAC 10B .0304** - This Rule sets out the Commission's Medical Examination requirement.  
**12 NCAC 10B .0505** - This Rule sets out the criteria for determining what prior training and experience a deputy sheriff may be credited and what training may be waived.  
**12 NCAC 10B .0601** - This Rule lists the topic areas and approximate minimum instructional hours for each area in the Detention Officer Certification Course. This Rule defines a "Detention Officer Certification Course Management Guide".  
**12 NCAC 10B .0603** - This Rule sets out the criteria for determining what prior training and experience a detention officer may be credited and what training may be waived.  
**12 NCAC 10B .0605** - This Rule explains procedures for completion of the Detention Officer Certification Course.

**12 NCAC 10B .0702** - The Criminal Justice Standards Division address is listed.  
**12 NCAC 10B .0703** - This Rule describes the administration of the Detention Officer Certification Course.  
**12 NCAC 10B .0704** - This Rule defines the responsibilities of a school director.  
**12 NCAC 10B .0705** - This Rule is in regards to the certification of school directors.  
**12 NCAC 10B .0706** - This Rule defines the terms and conditions of a school director's certification.  
**12 NCAC 10B .0707** - This Rule defines the Commission's authority to suspension, revocation, or denial of School Director's certification.  
**12 NCAC 10B .0801** - .0802 - This Section involves the accreditation of Justice Officer Schools and Training Courses.  
**12 NCAC 10B .0903** - This Rule is in regards to the certification of Instructors for detention officer certification.  
**12 NCAC 10B .0908** - This Rule is in regards to certification requirements for limited lecturer instructors.  
**12 NCAC 10B .0909** - This Rule states the terms of a limited lecturer instructor certification.  
**12 NCAC 10B .0910** - This Rule is in regards to the use of guest participants in the Detention Officer Certification Course.  
**12 NCAC 10B .0911** - This Rule is in regards to the suspension, revocation or denial of a Detention Officer Instructor Certification.  
**12 NCAC 10B .1002** - This Rule lists the general provisions for obtaining a Deputy Sheriff Professional Certificate.  
**12 NCAC 10B .1004** - This Rule explains the years of service and training needed in order to become eligible for an Intermediate Law Enforcement Certificate.  
**12 NCAC 10B .1005** - This Rule explains the years of service and training needed in order to become eligible for an Advanced Law Enforcement Certificate.  
**12 NCAC 10B .1006** - This Rule explains how to apply for the certificate program.  
**12 NCAC 10B .1102** - This Rule lists the general provisions for obtaining a Service Award.  
**12 NCAC 10B .1103** - .1104 - These Rules details the Intermediate and Advanced service awards program.  
**12 NCAC 10B .1105** - This Rule explains the years of service and training needed in order to become eligible for a Service Award.  
**12 NCAC 10B 1202** - This Rule lists the general provisions for obtaining a Detention Officer Professional Certificate.  
**12 NCAC 10B .1204** - This Rule identifies the requirements of the Intermediate Detention Officer's Professional Certificate.  
**12 NCAC 10B .1205** - This Rule explains the years of service and training needed in order to become eligible for an Advanced Detention Officer Certificate.

**12 NCAC 10B .1206** - This Rule explains how to apply for the certificate program.

**Reason for Proposed Action:**

**12 NCAC 10B .0101** - This Rule change is being made due to the Commission moving to a new building.

**12 NCAC 10B .0202** - This Rule change merely alters the wording to be consistent with other rules within the Commission's administrative code; and to make clear that the Probable Cause Committee of the Sheriffs' Commission, which has been formed in accordance with the Commission's bylaws, has the authority to determine the period of time appropriate for the sanction set out in paragraph (5).

**12 NCAC 10B .0204** - This Rule change adds language to make it clear that any attempts by justice officers to cheat on their in-service firearms requirement is punishable by the Commission. This change merely clarifies that should the Class A misdemeanors all be dated outside the 2 year period, certification shall be issued.

**12 NCAC 10B .0206** - This Rule change adds authority for the Director, on behalf of the Commission, to issue a summary denial in the event an applicant refuses to submit to the Commission-mandated drug screen; and to issue a summary suspension in the event an applicant/justice officer produces a positive drug screen.

**12 NCAC 10B .0304** - This Rule change alters the language of the rule to comply with the new medical forms adopted by the Commission.

**12 NCAC 10B .0505** - This Rule change requires a deputy sheriff to not only be employed with a prior agency in order to be credited with the time served at that agency, but to also be certified for that period of employment.

**12 NCAC 10B .0601** - The amendments to this Rule are as follows: This changes the total number of hours of instruction for the Detention Officer Certification Course. This change is being made to change one topic area, add another topic area, and increase the hours of the course. This change requires the certified school director to adhere to the guide before, during, and after a course delivery.

**12 NCAC 10B .0603** - This amendment requires a detention officer to not only be employed with a prior agency in order to be credited with the time served at that agency, but to also be certified for that period of employment.

**12 NCAC 10B .0605** - This amendment would allow a trainee to participate in only one partial delivery of a course in order to make up a deficiency within 120 days, and allows the trainee to retest on an end block unit test only once during that partial enrollment.

**12 NCAC 10B .0702** - The Criminal Justice Standards Division has relocated, therefore, the rule change of deleting "1 West Morgan Street" was necessary in updating this particular rule.

**12 NCAC 10B .0703** - The amendments to this Rule are as follows: This change would allow no more than two school directors to become certified per each accredited institution/agency. The rule also requires that the certified school director(s) be readily available at all times. This change would have the school director and the accredited

institution/agency refer to the Detention Officer Course Management Guide to determine the proper facility, equipment, materials, and supplies needed for a course delivery. The partial deletion of this Rule is the removal of the block of instruction entitled "Unarmed Self-Defense". The additions to this Rule are the standards needed for the delivery of the "Specialized Control Techniques" block of instruction. This addition specifies the type of jail cell needed in performing the required block of instruction entitled "Contraband Searches". This addition states the standards needed for delivery of the "Fire Emergencies in the Jail" block of instruction. This addition states the standards needed for delivery of the "Physical Assessment" block of instruction. This addition states the standards needed for delivery of the "First Aid and CPR" block of instruction. This addition is to allow an accredited institution/agency to make facility arrangements with another entity if the requirements are not able to be met at their own facility.

**12 NCAC 10B .0704** - Changes occur in this Rule for structural purposes; also the amendments to the rule are as follows: This addition is to require the school director to schedule the required number of instructors for specific topic areas of the Detention Officer Certification Course. This change to the rule refers to the Detention Officer Certification Course Management Guide for reference to required materials, etc. needed for the delivery of a course. This addition defines how the school director is to be available.

**12 NCAC 10B .0705** - This addition requires a school director to attend a school director's orientation prior to the delivery of a Detention Officer Certification Course.

**12 NCAC 10B .0706** - The rule changes are for structure; and paragraph (3) has been added to specify that the school director needs to comply with the accreditation requirements.

**12 NCAC 10B .0707** - The change authorizes the suspension, revocation or denial of a school director's certification when the school director has not complied with the terms and conditions in 12 NCAC 10B .0706.

**12 NCAC 10B .0801 - .0802** - All additions to this Section of the administrative code are in regard to the implementation of new accreditation standards.

**12 NCAC 10B .0903** - This Rule change requires all instructors to remain knowledgeable in their specific area of certification and to attend any curriculum updates.

**12 NCAC 10B .0908** - The following are the changes to this particular rule: This Rule change substitutes "Specialized Control Techniques" for "Unarmed Self-Defense" as the block of instruction. This Rule change would require all limited lecturer instructors to possess current valid CPR certification. This Rule change is a deletion of language regarding "Unarmed Self-Defense" and is an addition of the requirements for the new block of instruction "Specialized Control Techniques".

**12 NCAC 10B .0909** - The amendments to this rule are as follows: This Rule change would require the instructor to continuously possess valid CPR certification for renewal purposes. This Rule change would require the instructor to continuously possess valid CPR certification for renewal

purposes.

**12 NCAC 10B .0910** - This Rule change restricts the use of guest participants from assisting in the limited lecturer block of instruction.

**12 NCAC 10B .0911** - This Rule change authorizes the denial, suspension, or revocation of an instructor's certification for failing to attend and successfully complete any instructor training updates.

**12 NCAC 10B .1002** - The amendments to this Rule are as follows: This Rule change would not allow a justice officer that is subject to suspension or revocation proceedings to become eligible for a certificate program. This Rule change would require a justice officer to be a full time deputy sheriff in order to apply for this certificate program. This Rule change would require a justice officer to be a full time deputy sheriff in order to apply for this certificate program. This change clarifies what is acceptable as an education point toward the professional certificate program for deputies. This change clarifies what is acceptable as a training point toward the professional certificate program. This change clarifies what type of experience is acceptable for the professional certificate program.

**12 NCAC 10B .1004** - The amendments to this Rule are as follows: This Rule modification specifically spells out the types of degrees. This Rule change specifies that correspondence or vocational courses shall not be accredited toward education points.

**12 NCAC 10B .1005** - The amendments to this Rule are as follows: This Rule modification specifically spells out the types of degrees. This Rule change specifies that correspondence or vocational courses shall not be accredited toward education points.

**12 NCAC 10B .1006** - The amendments to this Rule are as follows: This Rule change clarifies what is acceptable as verification of education. This Rule change clarifies what is acceptable as verification of training. This change clarifies the type of applicant's length of service that is acceptable for this program. This change is in structure only.

**12 NCAC 10B .1101** - This Rule change clarifies that the purpose of the service award program is to award service in North Carolina only.

**12 NCAC 10B .1102** - The amendments to this Rule are as follows: This Rule change would not allow a justice officer that is subject to suspension or revocation proceedings to become eligible for a service award. This Rule change would require a justice officer to be a full time justice officer in order to apply for this service award program.

**12 NCAC 10B .1103 - .1104** - The partial deletion of these rules is to eliminate repetitious information.

**12 NCAC 10B .1105** - This Rule change specifically indicates the type of applicant's length of service that is acceptable for this program.

**12 NCAC 10B .1202** - The amendments to this Rule are as follows: This Rule change would require a detention officer to be full time in order to apply for this certificate program and would not allow a detention officer that is subject to suspension or revocation proceedings to become eligible for certificate

program. This Rule change clarifies what is acceptable as an education point toward the professional certificate program for detention officers. This Rule change clarifies what is acceptable as training point toward the professional certificate program for detention officers. This Rule change specifically indicates the type of applicant's length of service that is acceptable for this program.

**12 NCAC 10B .1204** - The amendments to this Rule are as follows: This Rule modification specifically spells out the types of degrees. This Rule change specifies that correspondence or vocational courses shall not be accredited toward education points.

**12 NCAC 10B .1205** - The amendments to this Rule are as follows: This Rule modification specifically spells out the types of degrees. This Rule change specifies that correspondence or vocational courses shall not be accredited toward education points.

**12 NCAC 10B .1206** - The amendments to this Rule are as follows: This Rule change clarifies what is acceptable as verification of education. This Rule change clarifies what is acceptable as verification of training. This Rule change clarifies the type of applicant's length of service that is acceptable for this program. This is simply a structure change.

**Comment Procedures:** Please contact the agency contact person with any questions or comments concerning this information. Barbara D. Moore, NC Sheriffs' Education and Training Standards Commission, PO Drawer 629, Raleigh, NC 27602, (919) 716-6460.

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## TITLE 21 - OCCUPATIONAL LICENSING BOARDS

### CHAPTER 2 - BOARD OF ARCHITECTURE

**Notice of Rule-making Proceedings** is hereby given by the North Carolina Board of Architecture in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 21 NCAC 2 .0208, .0210, .0213. The Board is also proposing the adoption of new rules setting out requirements of the continuing education program in the course of rule-making. Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 83A-6, 83A-11

**Statement of the Subject Matter:** The Rules proposed in this Section will adopt guidelines and standards for continuing education required for individuals licensed by this Board.

**Reason for Proposed Action:** No provision for continuing education currently exists. Due to the increasing complexity of



building design, as well as potential impediments to reciprocity, the Board believes it is in the best interest of the public and the profession to require continuing education for those it licenses.

**Comment Procedures:** Written comments on the subject matter of the proposed rule-making may be submitted until October 14, 1997 to Kathleen Hansinger, Executive Director, North Carolina Board of Architecture, 127 W. Hargett Street, Suite 304, Raleigh, NC 27601.

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## CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

### SUBCHAPTER 32B - LICENSE TO PRACTICE MEDICINE

**Notice of Rule-making Proceedings** is hereby given by the North Carolina Medical Board in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments

received on this notice.

**Citation to Existing Rules Affected by this Rule-Making:** 21 NCAC 32B - Other rules may be proposed in the course of the rule-making process.

**Authority for the rule-making:** G.S. 90-6

**Statement of the Subject Matter:** Licensing by endorsement, by examination, and without examination for full license, special license, volunteer license and any other physician license category.

**Reason for Proposed Action:** All rules pertaining to licensing by endorsement, by examination, and without examination have over time become a document which is difficult for applicants to interpret.

**Comment Procedures:** Written comments may sent to the rule-making coordinator: Helen D. Meelheim through October 14, 1997. Helen D. Meelheim, NC Medical Board, PO Box 20007, Raleigh, NC 27619 - Phone: (919) 828-1212.

*This Section contains the text of proposed rules. At least 60 days prior to the publication of text, the agency published a Notice of Rule-making Proceedings. The agency must accept comments on the proposed rule for at least 30 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. The required comment period is 60 days for a rule that has a substantial economic impact of at least five million dollars (\$5,000,000). Statutory reference: G.S. 150B-21.2.*

## TITLE 10 - DEPARTMENT OF HUMAN RESOURCES

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the Division of Facility Services intends to adopt rules cited as 10 NCAC 3R .3002, .3051 - .3088. Notice of Rule-making Proceedings was published in the Register on February 3, 1997.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 10:00 a.m. on October 14, 1997 at the Council Building, Conference Room 201, Division of Facility Services, 701 Barbour Drive, Raleigh, NC 27603.

**Reason for Proposed Action:** To adopt permanent rules to replace the temporary rules for the 1997 State Medical Facilities Plan (SMFP). The SMFP sets forth policies and need determinations for health service facilities and services.

**Comment Procedures:** Persons who wish to make written or verbal comments regarding these proposed rules should contact:

Mr. Jackie Sheppard, Rule-making Coordinator  
Division of Facility Services  
PO Box 29530  
Raleigh, NC 27626-0530  
Telephone: (919) 733-2342; FAX: (919) 733-2757

Verbal and written comments will be received through the date of the public hearing. The deadline for submission of written comments is October 14, 1997.

**Fiscal Note:** Rules 10 NCAC 3R .3072 - .3074, .3076, .3078 - .3079 do affect the expenditures or revenues of state or local government funds. These Rules do have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

Rules 10 NCAC 3R .3002, .3051 - .3071, .3075, .3077, .3080 - .3088 do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## CHAPTER 3 - FACILITY SERVICES

### SUBCHAPTER 3R - CERTIFICATE OF NEED REGULATIONS

#### SECTION .3000 - PLANNING POLICIES AND NEED DETERMINATIONS

##### **.3002    APPLICABILITY OF RULES RELATED TO THE 1996 STATE MEDICAL FACILITIES PLAN**

Rules .3001, .3010, .3020, .3030, .3032, .3040, and .3050 of this Section do not apply to certificate of need applications for which the scheduled review period begins after January 1, 1997.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

##### **.3051    APPLICABILITY OF RULES RELATED TO THE 1997 STATE MEDICAL FACILITIES PLAN**

Rules .3052 through .3054 and .3056 through .3088 of this Section apply to certificate of need applications for which the scheduled review period begins on or after January 1, 1997. In addition, Rule .3055 of this Section will be used to implement procedures described within it after January 1, 1997.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3052 CERTIFICATE OF NEED REVIEW CATEGORIES**

The agency has established nine categories of facilities and services for certificate of need review and will determine the appropriate review category or categories for all applications submitted pursuant to 10 NCAC 3R .0304. For proposals which include more than one category, the agency may require the applicant to submit separate applications. If it is not practical to submit separate applications, the agency will determine in which category the application will be reviewed. The review of an application for a certificate of need will commence in the next review schedule after the application has been determined to be complete. The nine categories of facilities and services are:

- (1) Category A. Proposals for acute health service facilities, except those proposals included in Categories B through H, including but not limited to the following types of projects: renovation, construction, equipment, and acute care services.
- (2) Category B. Proposals for long-term nursing facility beds; new continuing care facilities applying for exemption under 10 NCAC 3R .3083(b); and relocations of nursing facility beds under 10 NCAC 3R .3083(d).
- (3) Category C. Proposals for new psychiatric facilities; psychiatric beds in existing health care facilities; new intermediate care facilities for the mentally retarded (ICF/MR) and ICF/MR beds in existing health care facilities; new substance abuse and chemical dependency treatment facilities; substance abuse and chemical dependency treatment beds in existing health care facilities.
- (4) Category D. Proposals for new dialysis stations in response to the "county need" or "facility need" methodologies; and relocations of existing dialysis stations to another county.
- (5) Category E. Proposals for new or expanded inpatient rehabilitation facilities and inpatient rehabilitation beds in other health care facilities; and new or expanded ambulatory surgical facilities except those proposals included in Category H.
- (6) Category F. Proposals for new home health agencies or offices, new hospices, new hospice inpatient facility beds, and new hospice residential care facility beds.
- (7) Category G. Proposals for conversion of hospital beds to nursing care under 10 NCAC 3R .3083(a); and demonstration projects.
- (8) Category H. Proposals for bone marrow transplantation services, burn intensive care services, neonatal intensive care services, open heart surgery services, solid organ transplantation services, air ambulance equipment, cardiac angioplasty equipment, cardiac catheterization equipment, heart-lung bypass machines, gamma knives, lithotriptors, magnetic resonance imaging scanners, positron emission tomography scanners, major medical equipment as defined in G.S. 131E-176(14f), diagnostic centers as defined in G.S. 131E-176(7a), and oncology treatment centers as defined in G.S. 131E-176(18a).
- (9) Category I. Proposals involving cost overruns; expansions of existing continuing care facilities which are licensed by the Department of Insurance at the date the application is filed and are applying under exemptions from need determinations in 10 NCAC 3R .3072; relocations within the same county of existing health service facilities, beds or dialysis stations which do not involve an increase in the number of health service facility beds or stations; reallocation of beds or services; Category A proposals submitted by Academic Medical Center Teaching Hospitals designated prior to January 1, 1990; proposals submitted pursuant to 10 NCAC 3R .3080(c) by Academic Medical Center Teaching Hospitals designated prior to January 1, 1990; and any other proposal not included in Categories A through H.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3053 CERTIFICATE OF NEED REVIEW SCHEDULE**

The agency has established the following review schedules for certificate of need applications.

- (1) Nursing Care Beds (in accordance with need determinations in 10 NCAC 3R .3072)

<u>CON Beginning</u>	
<u>County</u>	<u>Review Date</u>
<u>Alexander</u>	<u>April 1, 1997</u>
<u>Burke</u>	<u>February 1, 1997</u>
<u>Cherokee</u>	<u>October 1, 1997</u>
<u>Cleveland</u>	<u>April 1, 1997</u>
<u>Haywood</u>	<u>April 1, 1997</u>
<u>Jackson</u>	<u>October 1, 1997</u>

<u>CON Beginning</u>	
<u>County</u>	<u>Review Date</u>
<u>Macon</u>	<u>October 1, 1997</u>
<u>Transylvania</u>	<u>April 1, 1997</u>
<u>Yancey</u>	<u>February 1, 1997</u>
<u>Davidson</u>	<u>October 1, 1997</u>
<u>Surry</u>	<u>August 1, 1997</u>
<u>Yadkin</u>	<u>August 1, 1997</u>
<u>Iredell</u>	<u>April 1, 1997</u>
<u>Lincoln</u>	<u>April 1, 1997</u>
<u>Union</u>	<u>August 1, 1997</u>
<u>Granville</u>	<u>May 1, 1997</u>
<u>Johnston</u>	<u>March 1, 1997</u>
<u>Lee</u>	<u>May 1, 1997</u>
<u>Wake</u>	<u>December 1, 1997</u>
<u>Brunswick</u>	<u>September 1, 1997</u>
<u>Harnett</u>	<u>March 1, 1997</u>
<u>Hoke</u>	<u>March 1, 1997</u>
<u>Moore</u>	<u>May 1, 1997</u>
<u>New Hanover</u>	<u>September 1, 1997</u>
<u>Currituck</u>	<u>December 1, 1997</u>
<u>Greene</u>	<u>September 1, 1997</u>
<u>Lenoir</u>	<u>May 1, 1997</u>
<u>Nash</u>	<u>September 1, 1997</u>

(2) Home Health Agency Offices (in accordance with need determinations in 10 NCAC 3R .3074)

<u>CON Beginning</u>	
<u>HSA</u>	<u>Review Date</u>
<u>I</u>	<u>December 1, 1997</u>
<u>II</u>	<u>April 1, 1997</u>
<u>III</u>	<u>June 1, 1997</u>
<u>IV</u>	<u>November 1, 1997</u>
<u>V</u>	<u>March 1, 1997</u>

<u>CON Beginning</u>	
<u>HSA</u>	<u>Review Date</u>
<u>VI</u>	<u>July 1, 1997</u>

(3) Detox-Only Beds (in accordance with need determinations in 10 NCAC 3R .3078)

<u>Mental Health Planning Areas</u>	<u>CON Beginning</u>
	<u>Review Date</u>
1 ( <u>Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain</u> )	<u>April 1, 1997</u>
4 ( <u>Henderson, Transylvania</u> )	<u>April 1, 1997</u>
5 ( <u>Alexander, Burke, Caldwell, McDowell</u> )	<u>April 1, 1997</u>
6 ( <u>Rutherford, Polk</u> )	<u>April 1, 1997</u>
8 ( <u>Gaston, Lincoln</u> )	<u>April 1, 1997</u>
11 ( <u>Davie, Iredell, Rowan</u> )	<u>April 1, 1997</u>
13 ( <u>Surry, Yadkin</u> )	<u>June 1, 1997</u>
15 ( <u>Rockingham</u> )	<u>June 1, 1997</u>
17 ( <u>Alamance, Caswell</u> )	<u>June 1, 1997</u>
18 ( <u>Orange, Person, Chatham</u> )	<u>June 1, 1997</u>
20 ( <u>Vance, Granville, Franklin, Warren</u> )	<u>June 1, 1997</u>
21 ( <u>Davidson</u> )	<u>May 1, 1997</u>
23 ( <u>Bladen, Columbus, Robeson, Scotland</u> )	<u>May 1, 1997</u>
26 ( <u>Johnston</u> )	<u>May 1, 1997</u>
27 ( <u>Wake</u> )	<u>May 1, 1997</u>
31 ( <u>Wayne</u> )	<u>May 1, 1997</u>
32 ( <u>Wilson, Greene</u> )	<u>May 1, 1997</u>
33 ( <u>Edgecombe, Nash</u> )	<u>May 1, 1997</u>
34 ( <u>Halifax</u> )	<u>May 1, 1997</u>
35 ( <u>Carteret, Craven, Jones, Pamlico</u> )	<u>May 1, 1997</u>
36 ( <u>Lenoir</u> )	<u>May 1, 1997</u>
38 ( <u>Bertie, Gates, Hertford, Northampton</u> )	<u>May 1, 1997</u>
39 ( <u>Beaufort, Hyde, Martin, Tyrrell, Washington</u> )	<u>May 1, 1997</u>
40 ( <u>Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans</u> )	<u>May 1, 1997</u>
41 ( <u>Duplin, Sampson</u> )	<u>May 1, 1997</u>

- (4) Intermediate Care Facility Beds for Mentally Retarded (in accordance with need determinations in 10 NCAC 3R .3079)

<u>Mental Health Planning Areas</u>	<u>CON Beginning Review Date</u>
<u>3 (Alleghany, Ashe, Avery, Watauga, Wilkes)</u>	<u>December 1, 1997</u>
<u>14 (Forsyth, Stokes)</u>	<u>December 1, 1997</u>
<u>21 (Davidson)</u>	<u>June 1, 1997</u>
<u>16 (Guilford)</u>	<u>June 1, 1997</u>
<u>18 (Orange, Person, Chatham)</u>	<u>November 1, 1997</u>
<u>24 (Cumberland)</u>	<u>May 1, 1997</u>
<u>30 (Onslow)</u>	<u>May 1, 1997</u>
<u>37 (Pitt)</u>	<u>May 1, 1997</u>

- (5) Applications for certificates of need will be reviewed pursuant to the following review schedule, unless another schedule has been specified in Items (1) through (4) of this Rule.

<u>CON Beginning Review Date</u>	<u>HSA I, II, III</u>	<u>HSA IV, V, VI</u>
<u>January 1</u>	--	--
<u>February 1</u>	A, B, G, I	G
<u>March 1</u>	--	A, B, F, I
<u>April 1</u>	B, F, H, I	--
<u>May 1</u>	--	B, C, H, I
<u>June 1</u>	A, C, D, E, I	D
<u>July 1</u>	--	A, F, I
<u>August 1</u>	B, E, I	--
<u>September 1</u>	--	B, E, I, H
<u>October 1</u>	A, B, I, H	--
<u>November 1</u>	--	A, C, F, I, H
<u>December 1</u>	C, D, F, H, I	B, D, H, I

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3054 MULTI-COUNTY GROUPINGS**

(a) Health Service Areas. The agency has assigned the counties of the state to the following health service areas for the purpose of scheduling applications for certificates of need:

HEALTH SERVICE AREAS (HSA)

**PROPOSED RULES**

<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>	<u>V</u>	<u>VI</u>
<u>County</u>	<u>County</u>	<u>County</u>	<u>County</u>	<u>County</u>	<u>County</u>
<u>Alexander</u>	<u>Alamance</u>	<u>Cabarrus</u>	<u>Chatham</u>	<u>Anson</u>	<u>Beaufort</u>
<u>Alleghany</u>	<u>Caswell</u>	<u>Gaston</u>	<u>Durham</u>	<u>Bladen</u>	<u>Bertie</u>
<u>Ashe</u>	<u>Davidson</u>	<u>Iredell</u>	<u>Franklin</u>	<u>Brunswick</u>	<u>Camden</u>
<u>Avery</u>	<u>Davie</u>	<u>Lincoln</u>	<u>Granville</u>	<u>Columbus</u>	<u>Carteret</u>
<u>Buncombe</u>	<u>Forsyth</u>	<u>Mecklenburg</u>	<u>Johnston</u>	<u>Cumberland</u>	<u>Chowan</u>
<u>Burke</u>	<u>Guilford</u>	<u>Rowan</u>	<u>Lee</u>	<u>Harnett</u>	<u>Craven</u>
<u>Caldwell</u>	<u>Randolph</u>	<u>Stanly</u>	<u>Orange</u>	<u>Hoke</u>	<u>Currituck</u>
<u>Catawba</u>	<u>Rockingham</u>	<u>Union</u>	<u>Person</u>	<u>Montgomery</u>	<u>Dare</u>
<u>Cherokee</u>	<u>Stokes</u>		<u>Vance</u>	<u>Moore</u>	<u>Duplin</u>
<u>Clay</u>	<u>Surry</u>		<u>Wake</u>	<u>New Hanover</u>	<u>Edgecombe</u>
<u>Cleveland</u>	<u>Yadkin</u>		<u>Warren</u>	<u>Pender</u>	<u>Gates</u>
<u>Graham</u>				<u>Richmond</u>	<u>Greene</u>
<u>Haywood</u>				<u>Robeson</u>	<u>Halifax</u>
<u>Henderson</u>				<u>Sampson</u>	<u>Hertford</u>
<u>Jackson</u>				<u>Scotland</u>	<u>Hyde</u>
<u>McDowell</u>					<u>Jones</u>
<u>Macon</u>					<u>Lenoir</u>
<u>Madison</u>					<u>Martin</u>
<u>Mitchell</u>					<u>Nash</u>
<u>Polk</u>					<u>Northampton</u>
<u>Rutherford</u>					<u>Onslow</u>
<u>Swain</u>					<u>Pamlico</u>
<u>Transylvania</u>					<u>Pasquotank</u>
<u>Watauga</u>					<u>Perquimans</u>
<u>Wilkes</u>					<u>Pitt</u>
<u>Yancey</u>					<u>Tyrrell</u>
					<u>Washington</u>
					<u>Wayne</u>
					<u>Wilson</u>

(b) Mental Health Planning Areas. The agency has assigned the counties of the state to the following Mental Health Planning Areas for purposes of the State Medical Facilities Plan:

MENTAL HEALTH PLANNING AREAS

Area Number	Constituent Counties
1	<u>Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain</u>
2	<u>Buncombe, Madison, Mitchell, Yancey</u>
3	<u>Alleghany, Ashe, Avery, Watauga, Wilkes</u>
4	<u>Henderson, Transylvania</u>
5	<u>Alexander, Burke, Caldwell, McDowell</u>
6	<u>Rutherford, Polk</u>
7	<u>Cleveland</u>
8	<u>Gaston, Lincoln</u>
9	<u>Catawba</u>
10	<u>Mecklenburg</u>
11	<u>Davie, Iredell, Rowan</u>
12	<u>Cabarrus, Stanly, Union</u>
13	<u>Surry, Yadkin</u>
14	<u>Forsyth, Stokes</u>
15	<u>Rockingham</u>
16	<u>Guilford</u>
17	<u>Alamance, Caswell</u>
18	<u>Orange, Person, Chatham</u>
19	<u>Durham</u>
20	<u>Vance, Granville, Franklin, Warren</u>
21	<u>Davidson</u>
22	<u>Anson, Hoke, Montgomery, Moore, Richmond</u>
23	<u>Bladen, Columbus, Robeson, Scotland</u>
24	<u>Cumberland</u>
25	<u>Lee, Harnett</u>
26	<u>Johnston</u>
27	<u>Wake</u>
28	<u>Randolph</u>
29	<u>Brunswick, New Hanover, Pender</u>
30	<u>Onslow</u>



<u>Area Number</u>	<u>Constituent Counties</u>
<u>31</u>	<u>Wayne</u>
<u>32</u>	<u>Wilson, Greene</u>
<u>33</u>	<u>Edgecombe, Nash</u>
<u>34</u>	<u>Halifax</u>
<u>35</u>	<u>Carteret, Craven, Jones, Pamlico</u>
<u>36</u>	<u>Lenoir</u>
<u>37</u>	<u>Pitt</u>
<u>38</u>	<u>Bertie, Gates, Hertford, Northampton</u>
<u>39</u>	<u>Beaufort, Hyde, Martin, Tyrrell, Washington</u>
<u>40</u>	<u>Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans</u>
<u>41</u>	<u>Duplin, Sampson</u>

(c) Mental Health Planning Regions. The agency has assigned the counties of the state to the following Mental Health Planning Regions for purposes of the State Medical Facilities Plan:

MENTAL HEALTH PLANNING REGIONS (Area Number and Constituent Counties)

<u>Western (W)</u>
<u>1</u> <u>Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain</u>
<u>2</u> <u>Buncombe, Madison, Mitchell, Yancey</u>
<u>3</u> <u>Alleghany, Ashe, Avery, Watauga, Wilkes</u>
<u>4</u> <u>Henderson, Transylvania</u>
<u>5</u> <u>Alexander, Burke, Caldwell, McDowell</u>
<u>6</u> <u>Rutherford, Polk</u>
<u>7</u> <u>Cleveland</u>
<u>8</u> <u>Gaston, Lincoln</u>
<u>9</u> <u>Catawba</u>
<u>10</u> <u>Mecklenburg</u>
<u>11</u> <u>Davie, Iredell, Rowan</u>
<u>12</u> <u>Cabarrus, Stanly, Union</u>
<u>North Central (NC)</u>
<u>13</u> <u>Surry, Yadkin</u>
<u>14</u> <u>Forsyth, Stokes</u>
<u>15</u> <u>Rockingham</u>

16	<u>Guilford</u>
17	<u>Alamance, Caswell</u>
18	<u>Orange, Person, Chatham</u>
19	<u>Durham</u>
20	<u>Vance, Granville, Franklin, Warren</u>
<u>South Central (SC)</u>	
21	<u>Davidson</u>
22	<u>Anson, Hoke, Montgomery, Moore, Richmond</u>
23	<u>Bladen, Columbus, Robeson, Scotland</u>
24	<u>Cumberland</u>
25	<u>Lee, Harnett</u>
26	<u>Johnston</u>
27	<u>Wake</u>
28	<u>Randolph</u>
<u>Eastern (E)</u>	
29	<u>Brunswick, New Hanover, Pender</u>
30	<u>Onslow</u>
31	<u>Wayne</u>
32	<u>Wilson, Greene</u>
33	<u>Edgecombe, Nash</u>
34	<u>Halifax</u>
35	<u>Carteret, Craven, Jones, Pamlico</u>
36	<u>Lenoir</u>
37	<u>Pitt</u>
38	<u>Bertie, Gates, Hertford, Northampton</u>
39	<u>Beaufort, Hyde, Martin, Tyrrell, Washington</u>
40	<u>Camden, Chowan, Currituck, Dare, Pasquotank, Perquimans</u>
41	<u>Duplin, Sampson</u>

Authority G.S. 131E-176(25); 131E-177(l); 131E-183(l).

### .3055 REALLOCATIONS AND ADJUSTMENTS

#### (a) REALLOCATIONS.

- (1) Reallocations shall be made only to the extent that the methodologies used in the State Medical Facilities Plan to make need determinations indicate that need exists after the inventories are revised and the need determinations are recalculated.
- (2) Beds or services which are reallocated once in accordance with this Rule shall not be reallocated again. Rather, the

- Medical Facilities Planning Section shall make any necessary changes in the next annual State Medical Facilities Plan.
- (3) Dialysis stations that are withdrawn, relinquished, not applied for or decertified shall not be reallocated. Instead, any necessary redetermination of need shall be made in the next scheduled publication of the Semiannual Dialysis Report.
- (4) Appeals of Certificate of Need Decisions on Applications. Need determinations of beds or services for which the CON Section decision has been appealed shall not be reallocated until the appeal is resolved.
- (A) Appeals Resolved Prior to August 17: If an appeal is resolved in the calendar year prior to August 17, the beds or services shall not be reallocated by the CON Section; rather the Medical Facilities Planning Section shall make the necessary changes in the next annual State Medical Facilities Plan.
- (B) Appeals Resolved on or After August 17: If the appeal is resolved on or after August 17 in the calendar year, the beds or services, except for dialysis stations, shall be made available for a review period to be determined by the CON Section, but beginning no earlier than 60 days from the date that the appeal is resolved. Notice shall be mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan, no less than 45 days prior to the due date for receipt of new applications.
- (5) Withdrawals and Relinquishments. Except for dialysis stations, a need determination for which a certificate of need is issued, but is subsequently withdrawn or relinquished, is available for a review period to be determined by the Certificate of Need Section, but beginning no earlier than 60 days from:
- (A) the last date on which an appeal of the notice of intent to withdraw the certificate could be filed if no appeal is filed,
- (B) the date on which an appeal of the withdrawal is finally resolved against the holder, or
- (C) the date that the Certificate of Need Section receives from the holder of the certificate of need notice that the certificate has been voluntarily relinquished.
- Notice of the scheduled review period for the reallocated services or beds shall be mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan, no less than 45 days prior to the due date for submittal of the new applications.
- (6) Need Determinations for which No Applications are Received:
- (A) Services or Beds with Scheduled Review in the Calendar Year on or Before September 1: The Certificate of Need Section shall not reallocate the services or beds in this category for which no applications were received, because the Medical Facilities Planning Section will have sufficient time to make any necessary changes in the determinations of need for these services or beds in the next annual State Medical Facilities Plan.
- (B) Services or Beds with Scheduled Review in the Calendar Year After September 1: A need determination in this category for which no application has been received by the last due date for submittal of applications shall be available to be applied for in the second Category I review period in the next calendar year for the applicable HSA. Notice of the scheduled review period for the reallocated beds or services shall be mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan, no less than 45 days prior to the due date for submittal of new applications.
- (7) Need Determinations not Awarded because Application Disapproved.
- (A) Disapproval in the Calendar Year prior to August 17: Need determinations or portions of such need determinations for which applications were submitted but disapproved by the Certificate of Need Section before August 17, shall not be reallocated by the Certificate of Need Section. Instead the Medical Facilities Planning Section shall make the necessary changes in the next annual State Medical Facilities Plan, if no appeal is filed.
- (B) Disapproval in the Calendar Year on or After August 17: Need determinations or portions of such need determinations for which applications were submitted but disapproved by the Certificate of Need Section on or after August 17, shall be reallocated by the Certificate of Need Section, except for dialysis stations. A need in this category shall be available for a review period to be determined by the Certificate of Need Section but beginning no earlier than 95 days from the date the application was disapproved, if no appeal is filed. Notice of the scheduled review period for the reallocation shall be mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan, no less than 80 days prior to the due date for submittal of the new applications.
- (8) Reallocation of Decertified ICF/MR Beds. If an ICF/MR facility's Medicaid certification is relinquished or revoked, the ICF/MR beds in the facility shall be reallocated by the Department of Human Resources, Division of Facility Services, Medical Facilities Planning Section pursuant to the provisions of the following Sub-parts. The reallocated beds shall only be used to convert five-bed ICF/MR facilities into six-bed facilities.
- (A) If the number of five-bed ICF/MR facilities in the mental health planning region in which the beds are located equals or exceeds the number of reallocated beds, the beds shall be reallocated solely within the planning region after considering the recommendation of the Regional Team of Developmental Disabilities Services Directors.
- (B) If the number of five-bed ICF/MR facilities in the mental health planning region in which the beds are located is less than the number of reallocated beds, the Medical Facilities Planning Section shall reallocate the excess beds

to other planning regions after considering the recommendation of the Developmental Disabilities Section in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. The Medical Facilities Planning Section shall then allocate the beds among the planning areas within those planning regions after considering the recommendation of the appropriate Regional Teams of Developmental Disabilities Services Directors.

- (C) The Department of Human Resources, Division of Facility Services, Certificate of Need Section shall schedule reviews of applications for these beds pursuant to Subparagraph (a)(5) of this Rule.

**(b) CHANGES IN NEED DETERMINATIONS.**

- (1) The need determinations in 10 NCAC 3R .3057 through .3079 shall be revised continuously throughout the calendar year to reflect all changes in the inventories of:
  - (A) the health services listed at G.S. 131E-176(16)f;
  - (B) health service facilities;
  - (C) health service facility beds;
  - (D) dialysis stations;
  - (E) the equipment listed at G.S. 131E-176(16)f1; and
  - (F) mobile medical equipment;
 as those changes are reported to the Medical Facilities Planning Section. However, need determinations in 10 NCAC 3R .3057 through .3079 shall not be reduced if the relevant inventory is adjusted upward 30 days or less prior to the first day of the applicable review period.
- (2) Inventories shall be updated to reflect:
  - (A) decertification of home health agencies or offices, intermediate care facilities for the mentally retarded, and dialysis stations;
  - (B) delicensure of health service facilities and health service facility beds;
  - (C) demolition, destruction, or decommissioning of equipment as listed at G.S. 131E-176(16)f1 and s;
  - (D) elimination or reduction of a health service as listed at G.S. 131E-176(16)f;
  - (E) psychiatric beds licensed pursuant to G.S. 131E-184(c);
  - (F) certificates of need awarded, relinquished, or withdrawn, subsequent to the preparation of the inventories in the State Medical Facilities Plan; and
  - (G) corrections of errors in the inventory as reported to the Medical Facilities Planning Section.
- (3) Any person who is interested in applying for a new institutional health service for which a need determination is made in 10 NCAC 3R .3056 through .3079 may obtain information about updated inventories and need determinations from the Medical Facilities Planning Section.
- (4) Need determinations resulting from changes in inventory shall be available for a review period to be determined by the Certificate of Need Section, but beginning no earlier than 60 days from the date of the action identified in Paragraph (b) of this Rule. Notice of the scheduled review period for the need determination shall be mailed by the Certificate of Need Section to all persons on the mailing list for the State Medical Facilities Plan, no less than 45 days prior to the due date for submittal of the new applications.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3056 DIALYSIS STATION NEED DETERMINATION**

(a) The Medical Facilities Planning Section (MFPS) shall determine need for new dialysis stations two times each calendar year, and shall make a report of such determinations available to all who request it. This report shall be called the North Carolina Semiannual Dialysis Report (SDR). Data to be used for such determinations, and their sources, are as follows:

- (1) Numbers of dialysis patients, by type, county and facility, from the Southeastern Kidney Council, Inc. (SEKC) and the Mid-Atlantic Renal Coalition, Inc. as of December 31, 1996 for the March SDR and as of June 30, 1997 for the September SDR.
- (2) Certificate of need decisions, decisions appealed, appeals settled, and awards, from the Certificate of Need Section, DFS.
- (3) Facilities certified for participation in Medicare, from the Certification Section, DFS.
- (4) Need determinations for which certificate of need decisions have not been made, from MFPS records.

Need determinations in this report shall be an integral part of the State Medical Facilities Plan, as provided in G.S. 131E-183.

(b) Need for new dialysis stations shall be determined as follows:

- (1) County Need
  - (A) The average annual rate (%) of change in total number of dialysis patients resident in each county from the end of 1992 to the end of 1996 is multiplied by the county's 1996 year end total number of patients in the SDR, and the product is added to each county's most recent total number of patients reported in the SDR. The sum is the county's projected total 1997 patients.

- (B) The percent of each county's total patients who were home dialysis patients at the end of 1996 is multiplied by the county's projected total 1997 patients, and the product is subtracted from the county's projected total 1997 patients. The remainder is the county's projected 1997 in-center dialysis patients.
- (C) The projected number of each county's 1997 in-center patients is divided by 3.2. The quotient is the projection of the county's 1997 in-center dialysis stations.
- (D) From each county's projected number of 1997 in-center stations is subtracted the county's number of stations certified for Medicare, CON-approved and awaiting certification, awaiting resolution of CON appeals, and the number represented by need determinations in previous State Medical Facilities Plans or Semiannual Dialysis Reports for which CON decisions have not been made. The remainder is the county's 1997 projected surplus or deficit.
- (E) If a county's 1997 projected station deficit is 10 or greater and the SDR shows that utilization of each dialysis facility in the county is 80% or greater, the 1997 county station need determination is the same as the 1997 projected station deficit. If a county's 1997 projected station deficit is less than 10 or if the utilization of any dialysis facility in the county is less than 80%, the county's 1997 station need determination is zero.
- (2) Facility Need. A dialysis facility located in a county for which the result of the County Need methodology is zero in the reference Semiannual Dialysis Report (SDR) is determined to need additional stations to the extent that:
  - (A) Its utilization, reported in the current SDR, is 3.2 patients per station or greater.
  - (B) Such need, calculated as follows, is reported in an application for a certificate of need:
    - (i) The facility's number of in-center dialysis patients reported in the previous SDR (SDR<sub>1</sub>) is subtracted from the number of in-center dialysis patients reported in the current SDR (SDR<sub>2</sub>). The difference is multiplied by 2 to project the net in-center change for one year. Divide the projected net in-center change for the year by the number of in-center patients from SDR<sub>1</sub> to determine the projected annual growth rate.
    - (ii) The quotient from Subpart (b)(2)(B)(i) of this Rule is divided by 12.
    - (iii) The quotient from Subpart (b)(2)(B)(ii) of this Rule is multiplied by the number of months from the most recent month reported in the current SDR until the end of calendar 1997.
    - (iv) The product from Subpart (b)(2)(B)(iii) of this Rule is multiplied by the number of the facility's in-center patients reported in the current SDR and that product is added to such reported number of in-center patients.
    - (v) The sum from Subpart (b)(2)(B)(iv) of this Rule is divided by 3.2, and from the quotient is subtracted the facility's current number of certified and pending stations as recorded in the current SDR. The remainder is the number of stations needed.
  - (C) The facility may apply to expand to meet the need established in Subpart (b)(2)(B)(v) of this Rule, up to a maximum of 10 stations.
- (c) The schedule for publication of the North Carolina Semiannual Dialysis Report (SDR) and for receipt of certificate of need applications based on each issue of this report in 1997 shall be as follows:

<u>Data for</u>	<u>Receipt of</u>	<u>Publication</u>	<u>Receipt of</u>	<u>Beginning</u>
<u>Period Ending</u>	<u>SEKC Report</u>	<u>of SDR</u>	<u>CON Applications</u>	<u>Review Dates</u>
<u>Dec. 31, 1996</u>	<u>Feb. 28, 1997</u>	<u>March 20, 1997</u>	<u>May 16, 1997</u>	<u>June 1, 1997</u>
<u>June 30, 1997</u>	<u>Aug. 29, 1997</u>	<u>Sept. 19, 1997</u>	<u>Nov. 14, 1997</u>	<u>Dec. 1, 1997</u>

- (d) An application for a certificate of need pursuant to this Rule shall be accepted only if it demonstrates a need by utilizing one of the methods of determining need outlined in this Rule.
- (e) An application for a new End Stage Renal Disease facility shall not be approved unless it documents the need for at least 10 stations based on utilization of 3.2 patients per station per week.
- (f) Home patients will not be included in determination of need for new stations.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3057 ACUTE CARE BED NEED DETERMINATION (REVIEW CATEGORY A)**

It is determined that there is no need for additional acute care beds.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3058 REHABILITATION BED NEED DETERMINATION (REVIEW CATEGORY E)**

It is determined that there is no need for additional rehabilitation beds.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3059 AMBULATORY SURGICAL FACILITIES NEED DETERMINATION (REVIEW CATEGORY E)**

It is determined that there is no need for additional ambulatory surgical facilities, except that a Rural Primary Care Hospital designated by the N.C. Office of Rural Health Services pursuant to Section 1820(f) of the Social Security Act may apply for a certificate of need to convert existing operating rooms for use as a freestanding ambulatory surgical facility.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3060 OPEN HEART SURGERY SERVICES NEED DETERMINATIONS (REVIEW CATEGORY H)**

It is determined that there is a need for additional open heart surgery services from any hospital which acquired a heart-lung bypass machine prior to March 18, 1993 and which, nevertheless, is unable to use such machine in the provision of open heart surgery services because the hospital does not have a certificate of need authorizing it to provide open heart surgery services. It is further determined that the citizens served by, and residing in the general service areas of, such hospitals have a need for such additional open heart surgery services. These needs exist despite the capacity to provide open heart surgery services of any other hospital or hospitals in the State. For the reasons set out in the 1997 State Medical Facilities Plan, there is no other need for additional open heart surgery services.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3061 HEART-LUNG BYPASS MACHINES NEED DETERMINATION FOR NEW OPEN HEART SURGERY SERVICES (REVIEW CATEGORY H)**

It is determined that there is no need for the acquisition of heart-lung bypass machines by anyone.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3062 HEART-LUNG BYPASS MACHINES NEED DETERMINATION FOR EXISTING OPEN HEART SURGERY SERVICES (REVIEW CATEGORY H)**

It is determined that there is no need for the acquisition of heart-lung bypass machines by anyone.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3063 CARDIAC CATHETERIZATION EQUIPMENT NEED DETERMINATION FOR NEW PROVIDERS (REVIEW CATEGORY H)**

It is determined that there is no need for the acquisition of cardiac catheterization equipment by anyone.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3064 CARDIAC CATHETERIZATION EQUIPMENT NEED DETERMINATION FOR EXISTING PROVIDERS (REVIEW CATEGORY H)**

It is determined that there is no need for the acquisition of cardiac catheterization equipment by anyone.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3065 CARDIAC ANGIOPLASTY EQUIPMENT NEED DETERMINATION FOR NEW PROVIDERS (REVIEW CATEGORY H)**

It is determined that there is no need for the acquisition of cardiac angioplasty equipment by anyone.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3066 CARDIAC ANGIOPLASTY EQUIPMENT NEED DETERMINATION FOR EXISTING PROVIDERS (REVIEW CATEGORY H)**

It is determined that there is no need for the acquisition of cardiac angioplasty equipment by anyone.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3067 BURN INTENSIVE CARE SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**

It is determined that there is no need for additional burn intensive care services.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3068 POSITRON EMISSION TOMOGRAPHY SCANNERS NEED DETERMINATION (REVIEW CATEGORY H)**

It is determined that there is no need for additional positron emission tomography scanners for purposes other than research.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3069 BONE MARROW TRANSPLANTATION SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**

It is determined that allogeneic bone marrow transplantation services shall be developed and offered only by academic medical center teaching hospitals as designated in 10 NCAC 3R .3080(c). It is also determined that there is no need for additional allogeneic or autologous bone marrow transplantation services.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3070 SOLID ORGAN TRANSPLANTATION SERVICES NEED DETERMINATION (REVIEW CATEGORY H)**

Solid Organ Transplantation Services shall be developed and offered only by academic medical center teaching hospitals as designated in 10 NCAC 3R .3080(c). It is determined that there is no need for new solid organ transplant services.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3071 GAMMA KNIFE NEED DETERMINATION (REVIEW CATEGORY H)**

It is determined that there is no need for a gamma knife.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3072 NURSING CARE BED NEED DETERMINATION (REVIEW CATEGORY B)**

It is determined that the counties listed in this Rule need additional Long-Term Nursing Facility Beds as specified. There is no need for additional Long-Term Nursing Facility Beds in other counties, except as otherwise provided in 10 NCAC 3R .3073.

<u>Number of Nursing</u>	
<u>County</u>	<u>Beds Needed</u>
<u>Alexander</u>	<u>40</u>
<u>Burke</u>	<u>90</u>
<u>Cherokee</u>	<u>30</u>
<u>Cleveland</u>	<u>60</u>
<u>Haywood</u>	<u>50</u>
<u>Jackson</u>	<u>40</u>
<u>Macon</u>	<u>50</u>
<u>Transylvania</u>	<u>30</u>
<u>Yancey</u>	<u>20</u>
<u>Davidson</u>	<u>100</u>

Number of Nursing	
County	Beds Needed
<u>Surry</u>	<u>70</u>
<u>Yadkin</u>	<u>40</u>
<u>Iredell</u>	<u>90</u>
<u>Lincoln</u>	<u>30</u>
<u>Union</u>	<u>90</u>
<u>Granville</u>	<u>20</u>
<u>Johnston</u>	<u>100</u>
<u>Lee</u>	<u>30</u>
<u>Wake</u>	<u>170</u>
<u>Brunswick</u>	<u>30</u>
<u>Cumberland</u>	<u>0</u>
<u>Harnett</u>	<u>50</u>
<u>Hoke</u>	<u>40</u>
<u>Moore</u>	<u>90</u>
<u>New Hanover</u>	<u>110</u>
<u>Currituck</u>	<u>20</u>
<u>Greene</u>	<u>30</u>
<u>Lenoir</u>	<u>40</u>
<u>Nash</u>	<u>60</u>

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3073 DEMONSTRATION PROJECT ON PEDIATRIC NURSING CARE NEED DETERMINATION  
(REVIEW CATEGORY G)**

(a) It is determined that nine nursing facility beds are needed to demonstrate the efficacy of short-term (less than 30 days) care of medically fragile infants and children. This demonstration project shall provide services to support medically fragile children who are primarily cared for at home and shall provide data to assist in determining if these children can be successfully cared for at home over the long-term with intermittent inpatient nursing facility admission. Because of improved medical procedures and care, more infants with complex medical needs are surviving and are being discharged from hospitals. The medical equipment and care needed by these children in the home is quite sophisticated. Pediatric patients suffering from acquired brain injury or from major trauma with significant orthopaedic problems may also require continued services, which include intermittent inpatient nursing care services, after discharge from rehabilitation hospitals. The proposed project shall be designed to ease the transition from the hospital environment to care at home for these patient groups. It shall also offer respite care and other services to low birth-weight children, to children with serious chronic conditions, and to children with rehabilitation needs.

(b) An applicant for the project shall demonstrate that home health services shall be provided through a home health agency. Furthermore, an applicant shall demonstrate coordination with other health services, including a hospice provider, an acute care provider, and an inpatient rehabilitation provider. Project oversight shall include at least one Pediatrician who is willing to serve as medical advisor and willing to assist in evaluation of the demonstration project's effectiveness. The goal of the services provided shall be for long-term maintenance of the pediatric patient at home.

(c) The demonstration project shall provide data to evaluate the effectiveness of this type of program in at least these ways:



- (1) Enhanced parent confidence/willingness to care for the child at home;
- (2) Reduced length of stay for hospitalization episodes;
- (3) Reduced hospitalizations/rehospitalizations;
- (4) Reduced incidence of institutionalization of children to long-term care facilities;
- (5) Outcomes of care -- especially relative to rehabilitation, chronic disease care;
- (6) Cost data -- cost efficiencies, expense, reimbursement issues.

(d) The demonstration project shall provide data to evaluate if additional programs in North Carolina would benefit the medically fragile pediatric population. Data shall be provided to the NC State Health Coordinating Council at least annually, beginning in the second year of the project's operation. Annual data reporting is to continue, until directed otherwise by the State Health Coordinating Council, or until the demonstrated activity becomes incorporated as a regular part of the State Medical Facilities Plan.

Number of Nursing	
<u>Geographic Area</u>	<u>Beds Needed for the Pediatric</u>
<u>Demonstration Project</u>	
<u>Statewide</u>	2

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3074 HOME HEALTH AGENCY OFFICE NEED DETERMINATION (REVIEW CATEGORY F)**

(a) It is determined that the Health Service Areas identified in 10 NCAC 3R .3054(a) and listed in this Rule may have a need for additional home health agency offices that is not revealed by the standard methodology as specified.

(b) Applications for certificates of need for home health agency offices filed pursuant to these adjusted need determinations shall demonstrate:

- (1) that the applicant proposes to address the needs of at least one of the following special needs groups:
  - (A) racial minorities,
  - (B) nursing home patients in transition to the community,
  - (C) HIV/AIDS patients,
  - (D) Alzheimer's Disease/senile dementia patients, or
  - (E) underserved patients in rural counties; and
- (2) that the applicant proposes to serve, during its first operating year, at least 50 patients who are members of the special groups identified in Subparagraph (1), of this Rule; and
- (3) that either:
  - (A) home health agencies currently serving the geographic area are not meeting the needs of the groups the applicant proposes to serve; or
  - (B) the proposed home health agency office will offer new or innovative services not currently being offered by home health agencies that serve the geographic area the applicant proposes to serve.

<u>HSA</u>	<u>Number of Agencies or Offices Needed</u>
<u>I</u>	1
<u>II</u>	1
<u>III</u>	1
<u>IV</u>	1
<u>V</u>	1
<u>VI</u>	1

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3075 HOSPICE NEED DETERMINATION (REVIEW CATEGORY F)**

It is determined that there is no need for additional Hospices.

Authority *G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3076 HOSPICE INPATIENT FACILITY BED NEED DETERMINATION (REVIEW CATEGORY F)**

(a) Single Counties. Single counties with a projected deficit of six or more beds are allocated beds based on the projected deficit. It is determined that there is no need for additional single county hospice inpatient facility beds.

(b) Contiguous Counties. It is determined that any combination of two or more contiguous counties taken from the following list shall have a need for new hospice inpatient facility beds if the combined bed deficit for the grouping of contiguous counties totals six or more beds. Each county in a grouping of contiguous counties must have a deficit of at least one and no more than five beds. The need for the grouping of contiguous counties shall be the sum of the deficits in the individual counties. For purposes of this Rule, "contiguous counties" shall mean a grouping of North Carolina counties which includes the county in which the new hospice inpatient facility is proposed to be located and any one or more of the North Carolina counties which have a common border with that county, even if the borders only touch at one point. No county may be included in a grouping of contiguous counties unless it is listed in the following table:

<u>County</u>	<u>Hospice Inpatient Bed Deficit</u>
<u>Alexander</u>	<u>1</u>
<u>Ashe</u>	<u>1</u>
<u>Haywood</u>	<u>1</u>
<u>Polk</u>	<u>1</u>
<u>Rutherford</u>	<u>3</u>
<u>Transylvania</u>	<u>1</u>
<u>Watauga</u>	<u>1</u>
<u>Wilkes</u>	<u>1</u>
<u>Yancey</u>	<u>1</u>
<u>Alamance</u>	<u>4</u>
<u>Davidson</u>	<u>2</u>
<u>Rockingham</u>	<u>2</u>
<u>Stokes</u>	<u>2</u>
<u>Surry</u>	<u>2</u>
<u>Cabarrus</u>	<u>2</u>
<u>Gaston</u>	<u>3</u>
<u>Iredell</u>	<u>1</u>
<u>Lincoln</u>	<u>1</u>
<u>Rowan</u>	<u>1</u>
<u>Stanly</u>	<u>1</u>
<u>Union</u>	<u>1</u>

<u>County</u>	<u>Hospice Inpatient Bed Deficit</u>
<u>Chatham</u>	<u>1</u>
<u>Durham</u>	<u>4</u>
<u>Johnston</u>	<u>1</u>
<u>Lee</u>	<u>1</u>
<u>Wake</u>	<u>4</u>
<u>Vance</u>	<u>1</u>
<u>Bladen</u>	<u>1</u>
<u>Brunswick</u>	<u>1</u>
<u>Columbus</u>	<u>3</u>
<u>Cumberland</u>	<u>1</u>
<u>Harnett</u>	<u>1</u>
<u>Moore</u>	<u>2</u>
<u>Pender</u>	<u>1</u>
<u>Richmond</u>	<u>2</u>
<u>Robeson</u>	<u>1</u>
<u>Scotland</u>	<u>1</u>
<u>Bertie</u>	<u>1</u>
<u>Craven</u>	<u>1</u>
<u>Duplin</u>	<u>1</u>
<u>Edgecombe</u>	<u>1</u>
<u>Hertford</u>	<u>1</u>
<u>Nash</u>	<u>1</u>
<u>Northampton</u>	<u>1</u>
<u>Onslow</u>	<u>1</u>
<u>Pitt</u>	<u>1</u>
<u>Wilson</u>	<u>1</u>

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3077 PSYCHIATRIC BED NEED DETERMINATION (REVIEW CATEGORY C)**

It is determined that there is no need for additional psychiatric beds.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3078 CHEMICAL DEPENDENCY TREATMENT BED NEED DETERMINATION (REVIEW CATEGORY C)**

(a) It is determined that there is no need for any additional chemical dependency treatment beds other than detox-only beds for adults. The following table lists the mental health planning areas that need detox-only beds for adults and identifies the number of such beds needed in each planning area. There is no need for additional detox-only beds for adults in any other mental health planning areas. No other reviews for chemical dependency treatment beds are scheduled.

<u>Mental Health Planning Areas (Constituent Counties)</u>	<u>Mental Health Planning Regions</u>	<u>Number of Detox-Only Beds Needed</u>
1 (Jackson, Haywood, Macon, Cherokee, Clay, Graham, Swain)	W	10
4 (Transylvania, Henderson)	W	10
5 (Caldwell, Burke, Alexander, McDowell)	W	10
6 (Rutherford, Polk)	W	10
8 (Gaston, Lincoln)	W	10
11 (Rowan, Iredell, Davie)	W	10
13 (Surry, Yadkin)	NC	2
15 (Rockingham)	NC	10
17 (Alamance, Caswell)	NC	6
18 (Orange, Person, Chatham)	NC	2
20 (Vance, Granville, Franklin, Warren)	NC	10
21 (Davidson)	SC	10
23 (Robeson, Bladen, Scotland, Columbus)	SC	5
26 (Johnston)	SC	7
27 (Wake)	SC	26
31 (Wayne)	E	4
32 (Wilson, Greene)	E	10
33 (Edgecombe, Nash)	E	6
34 (Halifax)	E	10
35 (Craven, Jones, Pamlico, Carteret)	E	10
36 (Lenoir)	E	10
38 (Hertford, Bertie, Gates, Northampton)	E	4
39 (Beaufort, Washington, Tyrrell, Hyde, Martin)	E	5
40 (Pasquotank, Chowan, Perquimans, Camden, Dare, Currituck)	E	10
41 (Duplin, Sampson)	E	10

(b) "Detox-only beds for adults" are chemical dependency treatment beds that are occupied exclusively by persons who are 18 years of age or older who are experiencing physiological withdrawal from the effects of alcohol or other drugs.

(c) The county or counties which comprise each mental health planning area are listed in 10 NCAC 3R .3054(b).

(d) Detox-only beds for adults may be developed outside of the mental health planning area in which they are needed if:

- (1) The beds are developed in a contiguous mental health planning area that is within the same mental health planning region, as defined by 10 NCAC 3R .3054(c); and
- (2) The program board in the planning area in which the beds are needed and the program board in the planning area in which the beds are to be developed each adopt a resolution supporting the development of the beds in the contiguous planning area.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3079 INTERMEDIATE CARE BEDS FOR THE MENTALLY RETARDED NEED DETERMINATION (REVIEW CATEGORY C)**

Intermediate Care Beds for the Mentally Retarded. It is determined that the mental health planning areas listed in the following table need additional Intermediate Care Beds for the Mentally Retarded ("ICF/MR beds"). The table identifies the number of new child and adult ICF/MR beds needed by each of the listed planning areas. These new ICF/MR beds shall only be used to convert existing five-bed ICF/MR beds into six-bed facilities. There is no need for new ICF/MR facilities or for any additional ICF/MR beds in any other mental health planning areas, except as provided in Rule 10 NCAC 3R .3055(a)(8).

<u>Mental Health Planning Area (Constituent Counties)</u>	<u>Need</u>	
	<u>Determination</u>	
	<u>Child</u>	<u>Adult</u>
3 (Alleghany, Ashe, Avery, Watauga, Wilkes)	0	4
14 (Forsyth, Stokes)	0	2
16 (Guilford)	0	2
21 (Davidson)	0	1
18 (Orange, Person, Chatham)	0	3
30 (Onslow)	0	1
24 (Cumberland)	0	1
37 (Pitt)	0	1

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3080 POLICIES FOR GENERAL ACUTE CARE HOSPITALS**

(a) Use of Licensed Bed Capacity Data for Planning Purposes. For planning purposes the number of licensed beds shall be determined by the Division of Facility Services in accordance with standards found in 10 NCAC 3C .6200 and .3102(d).

(b) Utilization of Acute Care Hospital Bed Capacity. Conversion of underutilized hospital space to other needed purposes shall be considered an alternative to new construction. Hospitals falling below utilization targets in Paragraph (e) of this Rule are assumed to have underutilized space. Any such hospital proposing new construction must clearly demonstrate that it is more cost-effective than conversion of existing space.

(c) Exemption from Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects. Projects for which certificates of need are sought by academic medical center teaching hospitals may qualify for exemption from provisions of 10 NCAC 3R .3056 through .3079.

(1) The State Medical Facilities Planning Section shall designate as an Academic Medical Center Teaching Hospital any facility whose application for such designation demonstrates the following characteristics of the hospital:

- (A) Serves as a primary teaching site for a school of medicine and at least one other health professional school, providing undergraduate, graduate and postgraduate education.
- (B) Houses extensive basic medical science and clinical research programs, patients and equipment.
- (C) Serves the treatment needs of patients from a broad geographic area through multiple medical specialties.

(2) Exemption from the provisions of 10 NCAC 3R .3056 through .3079 shall be granted to projects submitted by Academic Medical Center Teaching Hospitals designated prior to January 1, 1990 which projects comply with one of the following conditions:

- (A) Necessary to complement a specified and approved expansion of the number or types of students, residents or

- faculty, as certified by the head of the relevant associated professional school; or
- (B) Necessary to accommodate patients, staff or equipment for a specified and approved expansion of research activities, as certified by the head of the entity sponsoring the research; or
- (C) Necessary to accommodate changes in requirements of specialty education accrediting bodies, as evidenced by copies of documents issued by such bodies.

(d) Reconversion to Acute Care. Facilities redistributing beds from acute care bed capacity to rehabilitation or psychiatric use shall obtain a certificate of need to convert this capacity back to acute care. Application for reconversion of acute care beds converted to psychiatry or rehabilitation back to acute care beds shall be evaluated against the hospital's utilization in relation to the target occupancies for acute care beds shown in this Paragraph, without regard to the acute care bed need determinations shown in 10 NCAC 3R .3057.

<u>Licensed Bed Capacity</u>	<u>Percent Occupancy</u>
1 - 49	65%
50 - 99	70%
100 - 199	75%
200 - 699	80%
700 +	81.5%

(e) Replacement of Acute Care Bed Capacity. The evaluation of proposals for either partial or total replacement of acute care beds (i.e., construction of new space for existing acute care beds) shall be evaluated against the utilization of the total number of acute care beds in the applicant's hospital in relation to the target occupancy of the total number of beds in that hospital which is determined as follows:

<u>Total Licensed Acute Care Beds</u>	<u>Target Occupancy (Percent)</u>
1 - 49	65%
50 - 99	70%
100 - 199	75%
200 - 699	80%
700 +	81.5%

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### **.3081 POLICIES FOR INPATIENT REHABILITATION SERVICES**

(a) Distribution of Inpatient Rehabilitation Beds. After applying other required criteria, when superiority among two or more competing rehabilitation facility certificate of need applications is uncertain, favorable consideration shall be given to proposals that make rehabilitation services more accessible to patients and their families or are part of a comprehensive regional rehabilitation network.

(b) Outpatient and Home Care. Rehabilitation care which can be provided in an outpatient or home setting shall be provided in these settings unless it has been determined by an appropriate utilization program that inpatient care is necessary. All new inpatient rehabilitation programs are required to provide comprehensive outpatient rehabilitation services as part of their service delivery programs.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### **.3082 POLICIES FOR AMBULATORY SURGICAL FACILITIES**

Multi-Specialty Ambulatory Surgery. After applying other required criteria, when superiority among two or more competing ambulatory surgical facility certificate of need applications is uncertain, favorable consideration shall be given to "multi-specialty programs" over "specialty programs" in areas where need is demonstrated in 10 NCAC 3R .3059. A

multi-specialty ambulatory surgical program means a program providing services in at least three of the following areas: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, orthopedics, urology, and oral surgery. An ambulatory surgical facility shall provide at least two designated operating rooms with general anesthesia capabilities, and at least one designated recovery room.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### **.3083 POLICIES FOR NURSING CARE FACILITIES**

(a) Provision of Hospital-Based Long-Term Nursing Care.

(1) A certificate of need may be issued to a hospital which is licensed under G.S. 131E, Article 5, and which meets the conditions set forth in this Paragraph and in 10 NCAC 3R .1100, to convert up to 10 beds from its licensed acute care bed capacity for use as hospital-based long-term nursing care beds without regard to determinations of need in 10 NCAC 3R .3072 if the hospital:

(A) is located in a county which was designated as non-metropolitan by the U.S. Office of Management and Budget on January 1, 1997; and

(B) on January 1, 1997, had a licensed acute care bed capacity of 150 beds or less.

The certificate of need shall remain in force as long as the Department of Human Resources determines

- (1) The beds are developed in a contiguous mental health planning area that is within the same mental health planning region, as defined by 10 NCAC 3R .3054(c); and
- (2) The program board in the planning area in which the beds are needed and the program board in the planning area in which the beds are to be developed each adopt a resolution supporting the development of the beds in the contiguous planning area.

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3079 INTERMEDIATE CARE BEDS FOR THE MENTALLY RETARDED NEED DETERMINATION (REVIEW CATEGORY C)**

Intermediate Care Beds for the Mentally Retarded. It is determined that the mental health planning areas listed in the following table need additional Intermediate Care Beds for the Mentally Retarded ("ICF/MR beds"). The table identifies the number of new child and adult ICF/MR beds needed by each of the listed planning areas. These new ICF/MR beds shall only be used to convert existing five-bed ICF/MR beds into six-bed facilities. There is no need for new ICF/MR facilities or for any additional ICF/MR beds in any other mental health planning areas, except as provided in Rule 10 NCAC 3R .3055(a)(8).

<u>Mental Health Planning Area (Constituent Counties)</u>	<u>Need</u>	
	<u>Determination</u>	
	<u>Child</u>	<u>Adult</u>
3 (Alleghany, Ashe, Avery, Watauga, Wilkes)	0	4
14 (Forsyth, Stokes)	0	2
16 (Guilford)	0	2
21 (Davidson)	0	1
18 (Orange, Person, Chatham)	0	3
30 (Onslow)	0	1
24 (Cumberland)	0	1
37 (Pitt)	0	1

*Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).*

**.3080 POLICIES FOR GENERAL ACUTE CARE HOSPITALS**

(a) Use of Licensed Bed Capacity Data for Planning Purposes. For planning purposes the number of licensed beds shall be determined by the Division of Facility Services in accordance with standards found in 10 NCAC 3C .6200 and .3102(d).

(b) Utilization of Acute Care Hospital Bed Capacity. Conversion of underutilized hospital space to other needed purposes shall be considered an alternative to new construction. Hospitals falling below utilization targets in Paragraph (e) of this Rule are assumed to have underutilized space. Any such hospital proposing new construction must clearly demonstrate that it is more cost-effective than conversion of existing space.

(c) Exemption from Plan Provisions for Certain Academic Medical Center Teaching Hospital Projects. Projects for which certificates of need are sought by academic medical center teaching hospitals may qualify for exemption from provisions of 10 NCAC 3R .3056 through .3079.

(1) The State Medical Facilities Planning Section shall designate as an Academic Medical Center Teaching Hospital any facility whose application for such designation demonstrates the following characteristics of the hospital:

- (A) Serves as a primary teaching site for a school of medicine and at least one other health professional school, providing undergraduate, graduate and postgraduate education.
- (B) Houses extensive basic medical science and clinical research programs, patients and equipment.
- (C) Serves the treatment needs of patients from a broad geographic area through multiple medical specialties.

(2) Exemption from the provisions of 10 NCAC 3R .3056 through .3079 shall be granted to projects submitted by Academic Medical Center Teaching Hospitals designated prior to January 1, 1990 which projects comply with one of the following conditions:

- (A) Necessary to complement a specified and approved expansion of the number or types of students, residents or

- faculty, as certified by the head of the relevant associated professional school; or
- (B) Necessary to accommodate patients, staff or equipment for a specified and approved expansion of research activities, as certified by the head of the entity sponsoring the research; or
- (C) Necessary to accommodate changes in requirements of specialty education accrediting bodies, as evidenced by copies of documents issued by such bodies.

(d) Reconversion to Acute Care. Facilities redistributing beds from acute care bed capacity to rehabilitation or psychiatric use shall obtain a certificate of need to convert this capacity back to acute care. Application for reconversion of acute care beds converted to psychiatry or rehabilitation back to acute care beds shall be evaluated against the hospital's utilization in relation to the target occupancies for acute care beds shown in this Paragraph, without regard to the acute care bed need determinations shown in 10 NCAC 3R .3057.

<u>Licensed Bed Capacity</u>	<u>Percent Occupancy</u>
1 - 49	65%
50 - 99	70%
100 - 199	75%
200 - 699	80%
700 +	81.5%

(e) Replacement of Acute Care Bed Capacity. The evaluation of proposals for either partial or total replacement of acute care beds (i.e., construction of new space for existing acute care beds) shall be evaluated against the utilization of the total number of acute care beds in the applicant's hospital in relation to the target occupancy of the total number of beds in that hospital which is determined as follows:

<u>Total Licensed Acute Care Beds</u>	<u>Target Occupancy (Percent)</u>
1 - 49	65%
50 - 99	70%
100 - 199	75%
200 - 699	80%
700 +	81.5%

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### **.3081 POLICIES FOR INPATIENT REHABILITATION SERVICES**

(a) Distribution of Inpatient Rehabilitation Beds. After applying other required criteria, when superiority among two or more competing rehabilitation facility certificate of need applications is uncertain, favorable consideration shall be given to proposals that make rehabilitation services more accessible to patients and their families or are part of a comprehensive regional rehabilitation network.

(b) Outpatient and Home Care. Rehabilitation care which can be provided in an outpatient or home setting shall be provided in these settings unless it has been determined by an appropriate utilization program that inpatient care is necessary. All new inpatient rehabilitation programs are required to provide comprehensive outpatient rehabilitation services as part of their service delivery programs.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### **.3082 POLICIES FOR AMBULATORY SURGICAL FACILITIES**

Multi-Specialty Ambulatory Surgery. After applying other required criteria, when superiority among two or more competing ambulatory surgical facility certificate of need applications is uncertain, favorable consideration shall be given to "multi-specialty programs" over "specialty programs" in areas where need is demonstrated in 10 NCAC 3R .3059. A

multi-specialty ambulatory surgical program means a program providing services in at least three of the following areas: gynecology, otolaryngology, plastic surgery, general surgery, ophthalmology, orthopedics, urology, and oral surgery. An ambulatory surgical facility shall provide at least two designated operating rooms with general anesthesia capabilities, and at least one designated recovery room.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### **.3083 POLICIES FOR NURSING CARE FACILITIES**

(a) Provision of Hospital-Based Long-Term Nursing Care.

(1) A certificate of need may be issued to a hospital which is licensed under G.S. 131E, Article 5, and which meets the conditions set forth in this Paragraph and in 10 NCAC 3R .1100, to convert up to 10 beds from its licensed acute care bed capacity for use as hospital-based long-term nursing care beds without regard to determinations of need in 10 NCAC 3R .3072 if the hospital:

(A) is located in a county which was designated as non-metropolitan by the U.S. Office of Management and Budget on January 1, 1997; and

(B) on January 1, 1997, had a licensed acute care bed capacity of 150 beds or less.

The certificate of need shall remain in force as long as the Department of Human Resources determines



that the hospital is meeting the conditions outlined in this Paragraph.

- (2) "Hospital-based long-term nursing care" is defined as long-term nursing care provided to a patient who has been directly discharged from an acute care bed and cannot be immediately placed in a licensed nursing facility because of the unavailability of a bed appropriate for the individual's needs. Determination of the patient's need for hospital-based long-term nursing care shall be made in accordance with criteria and procedures for determining need for long-term nursing care administered by the Division of Medical Assistance and the Medicare program. Beds developed under this Paragraph are intended to provide placement for residents only when placement in other long-term care beds is unavailable in the geographic area. Hospitals which develop beds under this Paragraph shall discharge patients to other nursing facilities with available beds in the geographic area as soon as possible where appropriate and permissible under applicable law. Necessary documentation including copies of physician referral forms (FL 2) on all patients in hospital-based nursing units shall be made available for review upon request by duly authorized representatives of licensed nursing facilities.
- (3) For purposes of this Paragraph, beds in hospital-based long-term nursing care shall be certified as a "distinct part" as defined by the Health Care Financing Administration. Beds in a "distinct part" shall be converted from the existing licensed bed capacity of the hospital and shall not be reconverted to any other category or type of bed without a certificate of need. An application for a certificate of need for reconverting beds to acute care shall be evaluated against the hospital's service needs utilizing target occupancies shown in 10 NCAC 3R .3080(d), without regard to the acute care bed need shown in 10 NCAC 3R .3057.
- (4) A certificate of need issued for a hospital-based long-term nursing care unit shall remain in force as long as the following conditions are met:
  - (A) the beds shall be certified for participation in the Title XVIII (Medicare) and Title XIX (Medicaid) Programs;
  - (B) the hospital discharges residents to other nursing facilities in the geographic area with available beds when such discharge is appropriate and permissible under applicable law;
  - (C) patients admitted shall have been acutely ill inpatients of an acute hospital or its satellites immediately preceding placement in the unit. The granting of beds for hospital-based long-term nursing care shall not allow a hospital to convert additional beds without first obtaining a certificate of need. Where any hospital, or

the parent corporation or entity of such hospital, any subsidiary corporation or entity of such hospital, or any corporation or entity related to or affiliated with such hospital by common ownership, control or management:

- (i) applies for and receives a certificate of need for long-term care bed need determinations in 10 NCAC 3R .3072; or
  - (ii) currently has nursing home beds licensed as a part of the hospital under G.S. 131E, Article 5; or
  - (iii) currently operates long-term care beds under the Federal Swing Bed Program (P.L. 96-499), such hospital shall not be eligible to apply for a certificate of need for hospital-based long-term care nursing beds under this Rule. Hospitals designated by the State of North Carolina as Rural Primary Care Hospitals pursuant to Section 1820(f) of the Social Security Act, as amended, which have not been allocated long-term care beds under provisions of G.S. 131E-175 through 131E-190, may apply to develop beds under this Paragraph. However, such hospitals shall not develop long-term care beds both to meet needs determined in 10 NCAC 3R .3072 and this Paragraph.
- (5) Beds certified as a "distinct part" under this Paragraph shall be counted in the inventory of existing long-term care beds and used in the calculation of unmet long-term care bed need for the general population of a planning area. Applications for certificates of need pursuant to this Paragraph shall be accepted only for the February 1 review cycle. Beds awarded under this Paragraph shall be deducted from need determinations for the county as shown in 10 NCAC 3R .3072. Continuation of this policy shall be reviewed and approved by the Department of Human Resources annually. Certificates of need issued under policies analogous to this policy in State Medical Facilities Plans subsequent to the 1986 State Medical Facilities Plan are automatically amended to conform with the provisions of this Paragraph. The Department of Human Resources shall monitor this program and ensure that patients affected by this Paragraph are receiving appropriate services, and that conditions under which the certificate of need was granted are being met.
- (b) Plan Exemption for Continuing Care Facilities.
- (1) Qualified continuing care facilities may include from the outset, or add or convert bed capacity for long-term nursing care without regard to the bed need shown in 10 NCAC 3R .3072. To qualify for such

exemption, applications for certificates of need shall show that the proposed long-term nursing bed capacity:

- (A) Will only be developed concurrently with, or subsequent to construction on the same site, of facilities for both of the following levels of care:
  - (i) independent living accommodations (apartments and homes) for persons who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms within a suitable structure;
  - (ii) domiciliary care (adult care) beds for use by persons who, because of age or disability require some personal services, incidental medical services, and room and board to assure their safety and comfort.
- (B) Will be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract. Financial consideration paid by persons purchasing a continuing care contract shall be equitable between persons entering at the "independent living" and "domiciliary" levels of care.
- (C) Reflects the number of beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care, after making use of all feasible alternatives to institutional nursing care.
- (D) Will not be certified for participation in the Medicaid program.
- (2) One half of the long-term nursing beds developed under this exemption shall be excluded from the inventory used to project bed need for the general population. Certificates of need issued under policies analogous to this policy in State Medical Facilities Plans subsequent to the 1985 SMFP are automatically amended to conform with the provisions of this Paragraph. Certificates of need awarded pursuant to the provisions of Chapter 920, Session Laws 1983, or Chapter 445, Session Laws

1985 shall not be amended.

(c) Determination of Need for Additional Nursing Beds in Single Provider Counties. When a long-term care facility with fewer than 80 nursing care beds is the only nursing care facility within a county, it may apply for a certificate of need for additional nursing beds in order to bring the minimum number of beds available within the county to no more than 80 nursing beds without regard to the nursing bed need determination for that county as listed in 10 NCAC 3R .3072.

(d) Relocation of Certain Nursing Facility Beds.

(1) A certificate of need to relocate existing licensed nursing facility beds to another county(ies) may be issued to a facility licensed as a nursing facility under G.S. 131E, Article 6, Part A, provided that the conditions set forth in this Paragraph and in 10 NCAC 3R .1100 and the review criteria in G.S. 131E-183(a) are met. A facility applying for a certificate of need to relocate nursing facility beds shall demonstrate that:

- (A) it is a non-profit nursing facility supported by and directly affiliated with a particular religion and that it is the only nursing facility in North Carolina supported by and affiliated with that religion;
- (B) the primary purpose for the nursing facility's existence is to provide long-term care to followers of the specified religion in an environment which emphasizes religious customs, ceremonies, and practices;
- (C) relocation of the nursing facility beds to one or more sites is necessary to more effectively provide long-term nursing care to followers of the specified religion in an environment which emphasizes religious customs, ceremonies, and practices;
- (D) the nursing facility is expected to serve followers of the specified religion from a multi-county area; and
- (E) the needs of the population presently served shall be met adequately pursuant to G.S. 131E-183.

(2) Exemption from the provisions of 10 NCAC 3R .3072 shall be granted to a nursing facility for purposes of relocating existing licensed nursing beds to another county provided that it complies with all of the criteria listed in Subparagraph (d)(1) of this Rule.

(3) Any certificate of need issued under this Rule shall be subject to the following conditions:

- (A) the nursing facility shall relocate beds in at least two stages over a period of at least six months; and
- (B) the nursing facility shall provide a letter to the Medical Facilities Licensure Section, on or before the date that the first group of beds are relocated, irrevocably committing the facility to relocate all of the nursing facility beds for

that the hospital is meeting the conditions outlined in this Paragraph.

- (2) "Hospital-based long-term nursing care" is defined as long-term nursing care provided to a patient who has been directly discharged from an acute care bed and cannot be immediately placed in a licensed nursing facility because of the unavailability of a bed appropriate for the individual's needs. Determination of the patient's need for hospital-based long-term nursing care shall be made in accordance with criteria and procedures for determining need for long-term nursing care administered by the Division of Medical Assistance and the Medicare program. Beds developed under this Paragraph are intended to provide placement for residents only when placement in other long-term care beds is unavailable in the geographic area. Hospitals which develop beds under this Paragraph shall discharge patients to other nursing facilities with available beds in the geographic area as soon as possible where appropriate and permissible under applicable law. Necessary documentation including copies of physician referral forms (FL 2) on all patients in hospital-based nursing units shall be made available for review upon request by duly authorized representatives of licensed nursing facilities.
- (3) For purposes of this Paragraph, beds in hospital-based long-term nursing care shall be certified as a "distinct part" as defined by the Health Care Financing Administration. Beds in a "distinct part" shall be converted from the existing licensed bed capacity of the hospital and shall not be reconverted to any other category or type of bed without a certificate of need. An application for a certificate of need for reconverting beds to acute care shall be evaluated against the hospital's service needs utilizing target occupancies shown in 10 NCAC 3R .3080(d), without regard to the acute care bed need shown in 10 NCAC 3R .3057.
- (4) A certificate of need issued for a hospital-based long-term nursing care unit shall remain in force as long as the following conditions are met:
  - (A) the beds shall be certified for participation in the Title XVIII (Medicare) and Title XIX (Medicaid) Programs;
  - (B) the hospital discharges residents to other nursing facilities in the geographic area with available beds when such discharge is appropriate and permissible under applicable law;
  - (C) patients admitted shall have been acutely ill inpatients of an acute hospital or its satellites immediately preceding placement in the unit. The granting of beds for hospital-based long-term nursing care shall not allow a hospital to convert additional beds without first obtaining a certificate of need. Where any hospital, or

the parent corporation or entity of such hospital, any subsidiary corporation or entity of such hospital, or any corporation or entity related to or affiliated with such hospital by common ownership, control or management:

- (i) applies for and receives a certificate of need for long-term care bed need determinations in 10 NCAC 3R .3072; or
  - (ii) currently has nursing home beds licensed as a part of the hospital under G.S. 131E, Article 5; or
  - (iii) currently operates long-term care beds under the Federal Swing Bed Program (P.L. 96-499), such hospital shall not be eligible to apply for a certificate of need for hospital-based long-term care nursing beds under this Rule. Hospitals designated by the State of North Carolina as Rural Primary Care Hospitals pursuant to Section 1820(f) of the Social Security Act, as amended, which have not been allocated long-term care beds under provisions of G.S. 131E-175 through 131E-190, may apply to develop beds under this Paragraph. However, such hospitals shall not develop long-term care beds both to meet needs determined in 10 NCAC 3R .3072 and this Paragraph.
- (5) Beds certified as a "distinct part" under this Paragraph shall be counted in the inventory of existing long-term care beds and used in the calculation of unmet long-term care bed need for the general population of a planning area. Applications for certificates of need pursuant to this Paragraph shall be accepted only for the February 1 review cycle. Beds awarded under this Paragraph shall be deducted from need determinations for the county as shown in 10 NCAC 3R .3072. Continuation of this policy shall be reviewed and approved by the Department of Human Resources annually. Certificates of need issued under policies analogous to this policy in State Medical Facilities Plans subsequent to the 1986 State Medical Facilities Plan are automatically amended to conform with the provisions of this Paragraph. The Department of Human Resources shall monitor this program and ensure that patients affected by this Paragraph are receiving appropriate services, and that conditions under which the certificate of need was granted are being met.
    - (b) Plan Exemption for Continuing Care Facilities.
      - (1) Qualified continuing care facilities may include from the outset, or add or convert bed capacity for long-term nursing care without regard to the bed need shown in 10 NCAC 3R .3072. To qualify for such

exemption, applications for certificates of need shall show that the proposed long-term nursing bed capacity:

- (A) Will only be developed concurrently with, or subsequent to construction on the same site, of facilities for both of the following levels of care:
  - (i) independent living accommodations (apartments and homes) for persons who are able to carry out normal activities of daily living without assistance; such accommodations may be in the form of apartments, flats, houses, cottages, and rooms within a suitable structure;
  - (ii) domiciliary care (adult care) beds for use by persons who, because of age or disability require some personal services, incidental medical services, and room and board to assure their safety and comfort.
- (B) Will be used exclusively to meet the needs of persons with whom the facility has continuing care contracts (in compliance with the Department of Insurance statutes and rules) who have lived in a non-nursing unit of the continuing care facility for a period of at least 30 days. Exceptions shall be allowed when one spouse or sibling is admitted to the nursing unit at the time the other spouse or sibling moves into a non-nursing unit, or when the medical condition requiring nursing care was not known to exist or be imminent when the individual became a party to the continuing care contract. Financial consideration paid by persons purchasing a continuing care contract shall be equitable between persons entering at the "independent living" and "domiciliary" levels of care.
- (C) Reflects the number of beds required to meet the current or projected needs of residents with whom the facility has an agreement to provide continuing care, after making use of all feasible alternatives to institutional nursing care.
- (D) Will not be certified for participation in the Medicaid program.
- (2) One half of the long-term nursing beds developed under this exemption shall be excluded from the inventory used to project bed need for the general population. Certificates of need issued under policies analogous to this policy in State Medical Facilities Plans subsequent to the 1985 SMFP are automatically amended to conform with the provisions of this Paragraph. Certificates of need awarded pursuant to the provisions of Chapter 920, Session Laws 1983, or Chapter 445, Session Laws

1985 shall not be amended.

(c) Determination of Need for Additional Nursing Beds in Single Provider Counties. When a long-term care facility with fewer than 80 nursing care beds is the only nursing care facility within a county, it may apply for a certificate of need for additional nursing beds in order to bring the minimum number of beds available within the county to no more than 80 nursing beds without regard to the nursing bed need determination for that county as listed in 10 NCAC 3R .3072.

(d) Relocation of Certain Nursing Facility Beds.

(1) A certificate of need to relocate existing licensed nursing facility beds to another county(ies) may be issued to a facility licensed as a nursing facility under G.S. 131E, Article 6, Part A, provided that the conditions set forth in this Paragraph and in 10 NCAC 3R .1100 and the review criteria in G.S. 131E-183(a) are met. A facility applying for a certificate of need to relocate nursing facility beds shall demonstrate that:

- (A) it is a non-profit nursing facility supported by and directly affiliated with a particular religion and that it is the only nursing facility in North Carolina supported by and affiliated with that religion;
- (B) the primary purpose for the nursing facility's existence is to provide long-term care to followers of the specified religion in an environment which emphasizes religious customs, ceremonies, and practices;
- (C) relocation of the nursing facility beds to one or more sites is necessary to more effectively provide long-term nursing care to followers of the specified religion in an environment which emphasizes religious customs, ceremonies, and practices;
- (D) the nursing facility is expected to serve followers of the specified religion from a multi-county area; and
- (E) the needs of the population presently served shall be met adequately pursuant to G.S. 131E-183.

(2) Exemption from the provisions of 10 NCAC 3R .3072 shall be granted to a nursing facility for purposes of relocating existing licensed nursing beds to another county provided that it complies with all of the criteria listed in Subparagraph (d)(1) of this Rule.

(3) Any certificate of need issued under this Rule shall be subject to the following conditions:

- (A) the nursing facility shall relocate beds in at least two stages over a period of at least six months; and
- (B) the nursing facility shall provide a letter to the Medical Facilities Licensure Section, on or before the date that the first group of beds are relocated, irrevocably committing the facility to relocate all of the nursing facility beds for

which it has a certificate of need to relocate; and

- (C) subsequent to providing the letter to the Medical Facilities Licensure Section described in Part (d)(3)(B) of this Rule, the nursing facility shall accept no new patients in the beds which are being relocated, except new patients who, prior to admission, indicate their desire to transfer to the facility's new location(s).

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### .3084 POLICIES FOR HOME HEALTH SERVICES

(a) Development of Home Health Services. After applying other required criteria, when superiority among two or more competing home health agency or office certificate of need applications is uncertain, favorable consideration shall be given to proposals which:

- (1) provide an expanded scope of services (including nursing, physical therapy, speech therapy, and home health aide service);
- (2) provide the widest range of treatments within a given service; and
- (3) have the ability to offer services on a seven days per week basis as required to meet patient needs.

(b) Need Determination Upon Termination of County's Sole Home Health Agency. When a home health agency's board of directors, or in the case of a public agency, the responsible public body, votes to discontinue the agency's provision of home health services; and

- (1) the agency is the only home health agency with an office physically located in the county; and
- (2) the agency is not being lawfully transferred to another entity;

need for a new home health agency or office in the county is thereby established through this Rule. Following receipt of written notice of such decision from the home health agency's chief administrative officer, the Certificate of Need Section shall give public notice of the need for one home health agency or office in the county, and the dates of the review of applications to meet the need. Such notice shall be given no less than 45 days prior to the final date for receipt of applications in a newspaper serving the county and to home health agencies located outside the county reporting serving county patients in the most recent licensure applications on file.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### .3085 POLICIES FOR END-STAGE RENAL DISEASE DIALYSIS SERVICES

(a) Availability of Dialysis Care. After applying other required criteria, when superiority among two or more competing dialysis facility or station certificate of need applications is uncertain, favorable consideration shall be given to applicants proposing to provide or arrange for:

- (1) home training and backup for patients suitable for

home dialysis in the ESRD dialysis facility or in a facility that is a reasonable distance from the patient's residence;

- (2) ESRD dialysis service availability at times that do not interfere with ESRD patients' work schedules;
- (3) services in rural, remote areas.

(b) Relocation of Dialysis Stations. Relocations of existing dialysis stations are allowed only within the host county and to contiguous counties currently served by the facility. Certificate of need applicants proposing to relocate dialysis stations shall:

- (1) demonstrate that the proposal shall not result in a deficit in the number of dialysis stations in the county that would be losing stations as a result of the proposed project, as reflected in the most recent Semiannual Dialysis Report, and
- (2) demonstrate that the proposal shall not result in a surplus of dialysis stations in the county that would gain stations as a result of the proposed project, as reflected in the most recent Semiannual Dialysis Report.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

### .3086 POLICIES FOR PSYCHIATRIC INPATIENT FACILITIES

(a) Transfer of Beds from State Psychiatric Hospitals to Community Facilities. Beds in the State psychiatric hospitals used to serve short-term psychiatric patients may be relocated to community facilities. However, before beds are transferred out of the State psychiatric hospitals, appropriate services and programs shall be available in the community. State hospital beds which are relocated to community facilities shall be closed within 90 days following the date the transferred beds become operational in the community. Facilities proposing to operate transferred beds shall commit to serve the type of short-term patients normally placed at the State psychiatric hospitals. To help ensure that relocated beds will serve those persons who would have been served by the State psychiatric hospitals, a proposal to transfer beds from a State hospital shall include a written memorandum of agreement between the area MH/DD/SAS program serving the county where the beds are to be located, the Secretary of Human Resources, and the person submitting the proposal.

(b) Allocation of Psychiatric Beds. A hospital submitting a Certificate of Need application to add inpatient psychiatric beds shall convert excess licensed acute care beds to psychiatric beds. In determining excess licensed acute care beds, the hospital shall subtract the average occupancy rate for its licensed acute care beds over the previous 12-month period from the appropriate target occupancy rate for acute care beds listed in 10 NCAC 3R .3080(d) and multiply the difference by the number of its existing licensed acute care beds.

(c) Linkages Between Treatment Settings. An applicant applying for a certificate of need for psychiatric inpatient facility beds shall document that the affected area mental health, developmental disabilities and substance abuse authorities have been contacted and invited to comment on the proposed

services.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3087 POLICIES FOR CHEMICAL DEPENDENCY TREATMENT FACILITIES**

Linkages Between Treatment Settings. An applicant applying for a certificate of need for chemical dependency treatment facility beds shall document that the affected area mental health, developmental disabilities and substance abuse authorities have been contacted and invited to comment on the proposed services.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**.3088 POLICIES FOR INTERMEDIATE CARE FACILITIES FOR MENTALLY RETARDED**

(a) Determination of Intermediate Care Bed Need for Mentally Retarded/Developmentally Disabled Persons. After applying other required criteria, when superiority among two or more competing ICF/MR certificate of need applications is uncertain, favorable consideration shall be given to counties that do not have ICF/MR group homes when such counties are part of a multi-county area for which a need is shown in 10 NCAC 3R .3079.

(b) Linkages Between Treatment Settings. An applicant applying for a certificate of need for intermediate care facility beds for mentally retarded shall document that the affected area mental health, developmental disabilities and substance abuse authorities have been contacted and invited to comment on the proposed services.

Authority G.S. 131E-176(25); 131E-177(1); 131E-183(b).

**TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNR - Environmental Management Commission intends to amend rules cited as 15A NCAC 2D .0101, .0104, .0105, .0202, .0302, .0531, .0953, .1005, .1107, .1204, .1206, .1305, .1503, .1603, .1902, .1903; 2Q .0103, .0108, .0207, .0307, .0521, .0805 - .0807; and adopt 2D .1701 - .1710. Notice of Rule-making Proceedings for 15A NCAC 2D .0101, .0104 - .0105, .0202, .0302, .0531, .0953, .1005, .1107, .1503, .1603; .1701 - .1710; and 15A NCAC 2Q .0103, .0108, .0307, and .0521 was published in the Register on November 1, 1996. Notice of Rule-making Proceedings for 15A NCAC 2D .1204, .1206 and .1305 was published in the Register on May 15, 1996. Notice of Rule-making Proceedings for 15A NCAC 2D .1902 - .1903 and 15A NCAC 2Q .0207 was published in the Register on January 2, 1997. Notice of Rule-making Proceedings for 15A NCAC 2Q .0805 was published in the Register on December 15, 1995. Notice of Rule-making Proceedings for 15A NCAC 2Q .0806 - .0807 was published in the Register on March 15, 1996.

Proposed Effective Date: July 1, 1998

A Public Hearing will be conducted at 7:00 p.m. on September 8, 1997 at the Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27611.

**Reason for Proposed Action:**

15A NCAC 2D .0101, .0104 - .0105, .0202, .0302, .0531, .0953, .1005, .1107, .1305, .1503, and .1603; and 15A NCAC 2Q .0103, .0108, .0307, and .0521 - To change the Division name due to restructure of the Division of Environmental Management and to change the post office box of the Division of Air Quality due to a move.

15A NCAC 2D .1204 and .1206 - To clarify that temperature measuring devices are required to have a quality assurance program and to eliminate the primary chamber temperature requirement for medical waste incinerators.

15A NCAC 2D .1701 - .1710 - The proposed rules for controlling landfill gas emissions from "existing" municipal solid waste landfills (MSWL) are required to implement the Emission Guidelines promulgated by the EPA on March 12, 1996. The Emission Guidelines rules require each state to submit a state plan to the EPA for controlling landfill gas emissions from "existing" MSWLs. The proposed rules would fulfill a part of all the requirements of an acceptable state plan. If North Carolina does not submit an acceptable state plan to the EPA then the EPA will develop and implement a federal plan to implement the Emission Guideline rules.

15A NCAC 2D .1902 - .1903 - To change the name of the Asbestos Hazard Management Branch to Health Hazards Control Branch and to change the name of the Division of Environmental Management to Division of Air Quality.

15A NCAC 2Q .0207 - To add perchloroethylene to the list of compounds in 15A NCAC 2Q .0207 for annual reporting of emissions is required.

15A NCAC 2Q .0805 - .0807 - To revise the exclusionary levels for permit fee purposes for both grain elevators and cotton gins and to clarify that storage tanks that store fuel for an emergency generator would not disqualify the generator from the exclusionary rules.

**Comment Procedures:** All persons interested in these matters are invited to attend the public hearings. Any person desiring to comment for more than three minutes is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The hearing record will remain open until October 8, 1997, to receive additional written statements. Comments should be sent to and additional information concerning the hearing or the proposals may be obtained by contacting:

Mr. Thomas C. Allen  
Division of Air Quality  
PO Box 29580

Raleigh, North Carolina 27626-0580

(919) 733-1489 (phone)

(919) 715-7476 (fax)

thom\_allen@aq.ehnr.state.nc.us (e-mail)



**Fiscal Note:** *These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period. Rules 15A NCAC 2D .0101, .0104 - .0105, .0202, .0302, .0531, .0953, .1005, .1107, .1204, .1206, .1305, .1503, .1603, .1701 - .1702, .1704, .1706, .1710, .1902 - .1903; 2Q .0103, .0108, .0207, .0307, .0521, .0807 - do not affect the expenditures or revenues of state or local government funds.*

*Rules 15A NCAC 2D .1703, .1705, .1707 - .1709 - affect the expenditures or revenues of local government funds. These Rules do not affect the expenditures or revenues of state government funds.*

*Rules 15A NCAC 2Q .0805 - .0806 - affect the expenditures or revenue of state government funds. These Rules do not affect the expenditures or revenues of local government funds.*

## CHAPTER 2 - ENVIRONMENTAL MANAGEMENT

### SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

#### SECTION .0100 - DEFINITIONS AND REFERENCES

##### .0101 DEFINITIONS

The definition of any word or phrase used in Rules of this Subchapter is the same as given in Article 21, Chapter 143 of the General Statutes of North Carolina, as amended. The following words and phrases, which are not defined in the article, have the following meaning:

- (1) "Act" means "The North Carolina Water and Air Resources Act."
- (2) "Air pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radiative substance or matter ~~which is~~ emitted into or otherwise enters the ambient air.
- (3) "Ambient air" means that portion of the atmosphere outside of buildings ~~and or~~ other enclosed structures, stacks or ducts, and ~~which that~~ surrounds human, animal or plant life, or property.
- (4) "Approved" means approved by the Director of the Division of Air Quality Environmental Management.
- (5) "Capture system" means the equipment (including hoods, ducts, fans, etc.) used to contain, capture, or transport a pollutant to a control device.
- (6) "CFR" means "Code of Federal Regulations."
- (7) "Combustible material" means any substance ~~which, that~~, when ignited, will burn in air.
- (8) "Construction" means change in method of operation or any physical change, including on-site fabrication, erection, installation, replacement, demolition, or modification of a source, that results in a change in emissions or affects the compliance status.

- (9) "Control device" means equipment (fume incinerator, adsorber, absorber, scrubber, filtermedia, cyclone, electrostatic precipitator, or the like) used to destroy or remove air pollutant(s) ~~prior to before~~ discharge to the ambient air.

- (10) "Day" means a 24-hour period beginning at midnight.

- (11) "Director" means the Director of the Division of Air Quality Environmental Management unless otherwise specified.

- (12) "Division" means Division of Air Quality.

- (+12)(13) "Dustfall" means particulate matter ~~which that~~ settles out of the air and is expressed in units of grams per square meter per 30-day period.

- (+13)(14) "Emission" means the release or discharge, whether directly or indirectly, of any air pollutant into the ambient air from any source.

- (+14)(15) "Facility" means all of the pollutant emitting activities, except transportation facilities as defined under Rule .0802 of this Subchapter, that are located on one or more adjacent properties under common control.

- (+15)(16) "FR" means Federal Register.

- (+16)(17) "Fugitive emission" means those emissions ~~which that~~ could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

- (+17)(18) "Fuel burning equipment" means equipment whose primary purpose is the production of energy or power from the combustion of any fuel. The equipment is generally used for, but not limited to, heating water, generating or circulating steam, heating air as in warm air furnace, or furnishing process heat by transferring energy by fluids or through process vessel walls.

- (+18)(19) "Garbage" means any animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

- (+19)(20) "Incinerator" means a device designed to burn solid, liquid, or gaseous waste material.

- (+20)(21) "Opacity" means that property of a substance tending to obscure vision and is measured as ~~in terms of~~ percent obscuration.

- (+21)(22) "Open burning" means any fire whose products of combustion are emitted directly into the outdoor atmosphere without passing through a stack or chimney, approved incinerator, or other similar device.

- (+22)(23) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.

- (+23)(24) "Particulate matter" means any material except uncombined water that exists in a finely divided form as a liquid or solid at standard conditions.

- (+24)(25) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as

measured by methods specified in this Subchapter.

- (25)(26) "Permitted" means any source subject to a permit under this Subchapter or Subchapter 15A NCAC 2Q.
- (26)(27) "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, or any other legal entity, or its legal representative, agent or assigns.
- (27)(28) "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by methods specified in this Subchapter.
- (28)(29) "PM10 emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by methods specified in this Subchapter.
- (29)(30) "Refuse" means any garbage, rubbish, or trade waste.
- (30)(31) "Rubbish" means solid or liquid wastes from residences, commercial establishments, or institutions.
- (31)(32) "Rural area" means an area ~~which~~ that is primarily devoted to, but not necessarily limited to, the following uses: agriculture, recreation, wildlife management, state park, or any area of natural cover.
- (32)(33) "Salvage operation" means any business, trade, or industry engaged in whole or in part in salvaging or reclaiming any product or material, including, but not limited to, metal, chemicals, motor vehicles, shipping containers, or drums.
- (33)(34) "Smoke" means small gas-borne particles resulting from incomplete combustion, consisting predominantly of carbon, ash, and other burned or unburned residue of combustible materials that form a visible plume.
- (34)(35) "Source" means any stationary article, machine, process equipment, or other contrivance, or combination thereof, or any tank-truck, trailer or railroad tank car from which air pollutants emanate or are emitted, either directly or indirectly.
- (35)(36) "Sulfur oxides" means sulfur dioxide, sulfur trioxide, their acids and the salts of their acids. The concentration of sulfur dioxide is measured by the methods specified in this Subchapter.
- (36)(37) "Total suspended particulate" means any finely divided solid or liquid material, except water in uncombined form, that is or has been airborne as measured by methods specified in this Subchapter.
- (37)(38) "Trade wastes" means all solid, liquid, or gaseous waste materials or rubbish resulting from combustion, salvage operations, building operations, or the operation of any business, trade, or industry including, but not limited to, plastic products, paper, wood, glass, metal, paint, grease, oil and other petroleum products, chemicals, and ashes.
- (38)(39) "ug" means micrograms.

Authority G.S. 143-215.3(a)(1); 143-213.

#### .0104 INCORPORATION BY REFERENCE

(a) Anywhere there is a reference to rules contained in the Code of Federal Regulations (CFR) or to an American Society for Testing and Materials method (ASTM) in this Subchapter, those rules and methods are incorporated by reference.

(b) The Code of Federal Regulations and American Society for Testing and Materials methods incorporated by reference in this Subchapter shall automatically include any later amendments thereto unless a specific rule specifies otherwise.

(c) The Code of Federal Regulations may be purchased from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250. The cost of the referenced documents ~~are~~ is as follows:

- (1) 40 CFR Parts 1 to 51: ~~thirty-nine~~ fifty dollars ~~(\$39.00): (\$50.00).~~
- (2) 40 CFR Part 52: thirty-nine dollars (\$39.00).
- (3) 40 CFR Parts 53 to 59: eleven dollars (\$11.00).
- (4) 40 CFR Part 60: thirty-six dollars (\$36.00).
- (5) 40 CFR Parts 61 to ~~71~~: ~~80: forty-one~~ thirty-six dollars ~~(\$41.00): (\$36.00).~~
- (6) 40 CFR Parts ~~72 to 85~~: ~~forty-one~~ dollars (\$41.00).
- (6)(7) 40 CFR ~~Part 86~~: ~~Parts 81 to 85: twenty-three~~ forty dollars ~~(\$23.00): (\$40.00).~~
- (7)(8) 40 CFR Parts ~~87 to 135~~: ~~86 to 99: thirty-nine~~ five dollars ~~(\$39.00): (\$5.00).~~
- (8)(9) 40 CFR Parts 260 to 299: ~~thirty-six~~ forty dollars ~~(\$36.00): (\$40.00).~~

These prices are ~~July 1, 1994~~ October 15, 1996 prices.

(d) The American Society for Testing and Materials methods may be purchased from the Air Quality Division, ~~Section~~, P.O. Box ~~29580, 29535~~, Raleigh, North Carolina ~~27626-0535~~ 27626-0580 at a price of twenty cents (\$0.20) per page.

Authority G.S. 150B-21.6.

#### .0105 MAILING LIST

(a) The ~~Air Quality Section~~ Division shall develop and maintain a mailing list of persons who have requested notification of rule-making as required by 150B-21.2(b). Such persons shall receive a copy of the complete notice as filed with the Office of Administrative Hearings.

(b) Any person requesting to be on a mailing list established under Paragraph (a) of this Rule shall submit a written request to the Air Quality Division, ~~Section~~, P.O. Box ~~29580, 29535~~, Raleigh, North Carolina, 27626. Payment of fees required under this Section may be by check or money order ~~in the amount of~~ for thirty dollars (\$30.00) made payable to the Department of Environment, Health, and Natural Resources. Payment shall be submitted with each request and received by June 1 of each year. The fee covers from July 1 to June 30 of the following year.

Authority G.S. 143-215.3(a)(1); 150B-21.2(b).

#### SECTION .0200 - AIR POLLUTION



SOURCES

**.0202 REGISTRATION OF AIR POLLUTION SOURCES**

(a) The ~~director~~ Director may require the owner or operator of a source of air pollution to register that source.

(b) Any person required to register a source of air pollution with the ~~Division of Environmental Management~~ shall register the source on forms provided by the ~~division~~ Division and shall provide the following information:

- (1) the name of the person, company, or corporation operating the sources;
- (2) the address, location, and county;
- (3) principal officer of the company;
- (4) quantities and kinds of raw materials used;
- (5) process flow sheets;
- (6) operating schedules;
- (7) total weights and kinds of air pollution released;
- (8) types and quantities of fuels used;
- (9) stack heights; and
- (10) other information considered essential in evaluating the potential of the source to cause air pollution.

The forms shall be completed and returned to the Division ~~division~~ within 60 days following their receipt.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4).

**SECTION .0300 - AIR POLLUTION EMERGENCIES**

**.0302 EPISODE CRITERIA**

Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the Director determines that the accumulation of air contaminants in any place is attaining or has attained levels ~~which that~~ could, if such levels are sustained or exceeded, lead to a threat to the health of the public. In making this determination, the Director shall be guided by the following criteria:

- (1) Air Pollution Forecast. An internal watch by the ~~Division of Environmental Management~~ and local air pollution control agencies shall be activated by a National Weather Service advisory that an atmospheric stagnation advisory is in effect, or the equivalent local forecast of stagnant atmospheric conditions.
- (2) Alert. The alert level is that concentration of pollutants at which first stage control actions are to begin. The Director shall proclaim an alert when any of the following levels is reached at any monitoring site:
  - (a) sulfur dioxide -- 800 ug/m<sup>3</sup> (0.3 p.p.m.), 24-hour average;
  - (b) particulate -- 375 ug/m<sup>3</sup>, 24-hour average;
  - (c) sulfur dioxide and particulate combined -- product of sulfur dioxide ug/m<sup>3</sup>, 24-hour average, and particulate ug/m<sup>3</sup>, 24-hour

- average, equal to 65,000;
- (d) carbon monoxide -- 17 mg/m<sup>3</sup> (15 p.p.m.), eight-hour average;
- (e) ozone -- 400 ug/m<sup>3</sup> (0.2 p.p.m.), one-hour average;
- (f) nitrogen dioxide -- 1130 ug/m<sup>3</sup> (0.6 p.p.m.), one-hour average; 282 ug/m<sup>3</sup> (0.15 p.p.m.), 24-hour average;
- (g) PM10--350 ug/m<sup>3</sup>, 24-hour average; and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for 12 or more hours or increase or, ~~in the case of for~~ in the case of ozone, the situation is likely to ~~reoccur~~ recur within the next 24-hours unless control actions are taken.

- (3) Warning. The warning level indicates that air quality is continuing to degrade and that additional abatement actions are necessary. The Director shall proclaim a warning when any one of the following levels is reached at any monitoring site:

- (a) sulfur dioxide -- 1600 ug/m<sup>3</sup> (0.6 p.p.m.), 24-hour average;
- (b) particulate -- 625 ug/m<sup>3</sup>, 24-hour average;

- (c) sulfur dioxide and particulate combined -- product of sulfur dioxide ug/m<sup>3</sup>, 24-hour average, and particulate ug/m<sup>3</sup>, 24-hour average, equal to 261,000;

- (d) carbon monoxide -- 34 mg/m<sup>3</sup> (30 p.p.m.), eight-hour average;

- (e) ozone -- 800 ug/m<sup>3</sup> (0.4 p.p.m.), one-hour average;

- (f) nitrogen dioxide -- 2260 ug/m<sup>3</sup> (1.2 p.p.m.), one-hour average; 565 ug/m<sup>3</sup> (0.3 p.p.m.), 24-hour average;

- (g) PM10--420 ug/m<sup>3</sup>; 24-hour average; and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for 12 or more hours or increase or, ~~in the case of for~~ in the case of ozone, the situation is likely to ~~reoccur~~ recur within the next 24 hours unless control actions are taken.

- (4) Emergency. The emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. The Secretary of the Department of Environment, Health, and Natural Resources ~~Natural Resources and Community Development~~ with the concurrence of the Governor shall declare an emergency when any one of the following levels is reached at any monitoring site:

- (a) sulfur dioxide -- 2100 ug/m<sup>3</sup> (0.8 p.p.m.), 24-hour average;

- (b) particulate -- 875 ug/m<sup>3</sup>, 24-hour average;

- (c) sulfur dioxide and particulate combined -- product of sulfur dioxide ug/m<sup>3</sup>, 24-hour

- average, and particulate  $\mu\text{g}/\text{m}^3$ , 24-hour average, equal to 393,000;
  - (d) carbon monoxide -- 46  $\text{mg}/\text{m}^3$  (40 p.p.m.), eight-hour average;
  - (e) ozone -- 1000  $\mu\text{g}/\text{m}^3$  (0.5 p.p.m.), one-hour average;
  - (f) nitrogen dioxide -- 3000  $\mu\text{g}/\text{m}^3$  (1.6 p.p.m.), one-hour average; 750  $\mu\text{g}/\text{m}^3$  (0.4 p.p.m.), 24-hour average;
  - (g) PM<sub>10</sub>--500  $\mu\text{g}/\text{m}^3$ , 24-hour average.
- (5) Termination. Once declared any level reached by application of these criteria will remain in effect until the criteria for that level are no longer met. At that time the next lower level will be assumed.

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(12).

## SECTION .0500 - EMISSION CONTROL STANDARDS

### .0531 SOURCES IN NONATTAINMENT AREAS

#### (a) Applicability.

- (1) Ozone Nonattainment Areas. This Rule applies to major stationary sources and major modifications of sources of volatile organic compounds or nitrogen oxides for which construction commences after the area in which the source is located is designated in ~~accordance with~~ according to Part (A) or (B) of this Subparagraph and ~~which that~~ are located in:
- (A) areas designated in 40 CFR 81.334 as nonattainment for ozone, or
  - (B) any of the following areas and in that area only when the Director notices in the North Carolina Register that the area is in violation of the ambient air quality standard for ozone:
    - (i) Charlotte/Gastonia, consisting of Mecklenburg and Gaston Counties; with the exception allowed under Paragraph (k) of this Rule;
    - (ii) Greensboro/Winston-Salem/High Point, consisting of Davidson, Forsyth, and Guilford Counties and that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to Yadkin River; or
    - (iii) Raleigh/Durham, consisting of Durham and Wake Counties and Dutchville Township in Granville County.

Violations of the ambient air quality standard for ozone shall be determined ~~in accordance with~~ according to 40 CFR 50.9.

- (2) Carbon Monoxide Nonattainment Areas. This Rule applies to major stationary sources and major modifications of sources of carbon monoxide located in areas designated in 40 CFR 81.334 as nonattainment for carbon monoxide and for which

construction commences after the area in which the source is located is listed in 40 CFR 81.334 as nonattainment for carbon monoxide.

- (3) Redesignation to Attainment. If any county or part of a county to which this Rule applies is later designated in 40 CFR 81.334 as attainment for ozone or carbon monoxide, all sources in that county subject to this Rule before the redesignation date shall continue to comply with this Rule.
- (b) For the purpose of this Rule the definitions contained in 40 CFR 51.165(a)(1) and 40 CFR 51.301 shall apply. The reasonable period specified in 40 CFR 51.165(a)(1)(vi)(C)(1) shall be seven years.

#### (c) This Rule is not applicable to:

- (1) complex sources of air pollution ~~that are~~ regulated only under Section .0800 of this Subchapter and not under any other rule in this Subchapter;
- (2) emission of pollutants at the new major stationary source or major modification located in the nonattainment area ~~which that~~ are pollutants other than the pollutant or pollutants for which the area is nonattainment. (A major stationary source or major modification that is major for volatile organic compounds or nitrogen oxides is also major for ozone.);
- (3) emission of pollutants for which the source or modification is not major;
- (4) a new source or modification ~~which that~~ qualifies for exemption under the provision of 40 CFR 51.165(a)(4); and
- (5) emission of compounds ~~that are~~ listed under 40 CFR 51.100(s) as having been determined to have negligible photochemical reactivity except carbon monoxide.

(d) 15A NCAC 2Q .0102 and .0302 are not applicable to any source to which this Rule applies. The owner or operator of the source shall apply for and receive a permit as required in 15A NCAC 2Q .0300 or .0500.

(e) To issue a permit to a source to which this Rule applies, the Director shall determine that the source will meet the following requirements:

- (1) The source will emit the nonattainment pollutant at a rate no more than the lowest achievable emission rate;
- (2) The owner or operator of the proposed new or modified source has demonstrated that all major stationary sources in the State ~~which that~~ are owned or operated by this person (or any entity controlling, controlled by, or under common control with this person) are subject to emission limitations and are in compliance, or on a schedule for compliance ~~which that~~ is federally enforceable or contained in a court decree, with all applicable emission limitations and standards of this Subchapter ~~which that~~ EPA has authority to approve as elements of the North Carolina State Implementation Plan for Air Quality;
- (3) The source will obtain sufficient emission reductions

of the nonattainment pollutant from other sources in the nonattainment area so that the emissions from the new major source and associated new minor sources will be less than the emissions reductions by a ratio of at least 1.00 to 1.15 for volatile organic compounds and nitrogen oxides and by a ratio of lesser than one to one for carbon monoxide. The baseline for this emission offset shall be the actual emissions of the source from which offset credit is obtained. Emission reductions shall not include any reductions resulting from compliance (or scheduled compliance) with applicable rules in effect prior to before the application. The difference between the emissions from the new major source and associated new minor sources of carbon monoxide and the emission reductions shall be sufficient to represent reasonable further progress toward attaining the Ambient Air Quality Standards. The emissions reduction credits shall also conform to the provisions of 40 CFR 51.165(a)(3)(ii)(A) through (G); and

- (4) The North Carolina State Implementation Plan for Air Quality is being carried out for the nonattainment area in which the proposed source is located.

(f) When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation established after August 7, 1980, on the capacity of the source or modification to emit a pollutant, such as a restriction on hours of operation, then the provisions of this Rule shall apply to the source or modification as though construction had not yet begun on the source or modification.

(g) To issue a permit to a source of a nonattainment pollutant, the Director shall determine, in addition to the other requirements of this Rule, that an analysis (produced by the permit applicant) of alternative sites, sizes, production processes, and environmental control techniques for source demonstrates that the benefits of the source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(h) Approval of an application ~~with regard to~~ regarding the requirements of this Rule shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of other rules of this Chapter and any other requirements under local, state, or federal law.

(i) When a source or modification subject to this Rule may affect the visibility of a Class I area named in Paragraph (c) of Rule .0530 of this Section, the following procedures shall be followed:

- (1) The owner or operator of the source shall provide an analysis of the impairment to visibility that would occur ~~as a result~~ because of the source or modification and general commercial, industrial and other growth associated with the source or modification;
- (2) The Director shall provide written notification to all affected Federal Land Managers within 30 days of receiving the permit application or within 30 days of

receiving advance notification of an application. The notification shall be at least 30 days ~~prior to~~ before the publication of the notice for public comment on the application. The notification shall include a copy of all information relevant to the permit application including an analysis provided by the source of the potential impact of the proposed source on visibility;

- (3) The Director shall consider any analysis concerning visibility impairment performed by the Federal Land Manager if the analysis is received within 30 days of notification. If the Director finds that the analysis of the Federal Land Manager fails to demonstrate to his satisfaction that an adverse impact on visibility will result in the Class I area, the Director shall provide in the notice of public hearing on the application, an explanation of his decision or notice ~~as to~~ where the explanation can be obtained;
- (4) The Director shall only issue permits to those sources whose emissions will be consistent with making reasonable progress ~~towards~~ toward the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory Class I areas when the impairment results from ~~man-made~~ manmade air pollution. In making the decision to issue a permit, the Director shall consider the cost of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source; and
- (5) The Director may require monitoring of visibility in or around any Class I area by the proposed new source or modification when the visibility impact analysis indicates possible visibility impairment.

The requirements of this Paragraph shall not apply to nonprofit health or nonprofit educational institutions.

(j) The version of the Code of Federal Regulations incorporated in this Rule is that as of January 1, 1989, and does not include any subsequent amendments or editions to the referenced material.

(k) Paragraphs (e) and (g) of this Rule shall not apply to a new major stationary source or a major modification of a source of volatile organic compounds or nitrogen oxides for which construction commences after the area in which the source is located has been designated ~~in accordance with~~ according to Part (a)(1)(B) of this Rule and before the area is designated in 40 CFR 81.334 as nonattainment for ozone if the owner or operator of the source demonstrates, using the Urban Airshed Model (UAM), that the new source or modification will not contribute to or cause a violation. The model used shall be that maintained by the Division. ~~Division of Environmental Management~~. The ~~Division of Environmental Management~~ shall only run the model after the permit application has been submitted. The permit application shall be incomplete until the modeling analysis is completed. The owner or operator of the source shall apply such degree of control and obtain such offsets necessary to demonstrate the new source or modified source will not cause or contribute to a violation.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.108(b).

# SECTION .0900 - VOLATILE ORGANIC COMPOUNDS

## .0953 VAPOR RETURN PIPING FOR STAGE II VAPOR RECOVERY

(a) Applicability. This Rule applies to any facility located in Davidson, Durham, Forsyth, Gaston, Guilford, Mecklenburg, or Wake counties or the Dutchville Township in Granville county or that portion of Davie ~~county~~ County that is bounded by the Yadkin River, Dutchman's Creek, NC Highway 801, Fulton Creek and back to the Yadkin River:

- (1) that is built after June 30, 1994, or
- (2) whose tanks are replaced or removed for upgrades or repairs after June 30, 1994.

When a new tank is added, the new tank shall comply with this Rule.

(b) Exemptions. The burden of proof of eligibility for exemption from this Rule is on the owner or operator of the facility. Persons seeking an exemption from this Rule shall maintain adequate records of throughput and shall furnish these records to the Director upon request. These records shall be maintained on file for three years. The following facilities are exempt from this Rule based upon the previous two years records:

- (1) any facility ~~which that~~ dispenses less than 10,000 gallons of gasoline per calendar month;
- (2) any facility ~~which that~~ dispenses less than 50,000 gallons of gasoline per calendar month and is an independent small business marketer of gasoline;
- (3) any facility ~~which that~~ dispenses gasoline exclusively for refueling marine vehicles, aircraft, farm equipment, and emergency vehicles; or
- (4) any tanks used exclusively to test the fuel dispensing meters.

Any facility that ever exceeds the exemptions given in Subparagraphs (1), (2), (3), or (4) of this Paragraph shall be subject to all of the provisions of this Rule ~~in accordance with~~ according to the schedule given in Paragraph (e) of this Rule, and shall remain subject to these provisions even if the facility's later operation meets the exemption requirements.

(c) Definitions. For the purpose of this Rule, the following definitions apply:

- (1) "Affected Facility" means any gasoline service station or gasoline dispensing facility subject to the requirements of this Rule.
- (2) "CARB" means the California Air Resources Board.
- (3) "Certified Stage II Vapor Recovery System" means any system certified by the California Air Resources Board as having a vapor recovery or removal efficiency of at least 95 percent by weight.
- (4) "Facility" means any gasoline service station or gasoline dispensing facility.
- (5) "ISBM" means independent small business marketer.
- (6) "Independent Small Business Marketer of Gasoline"

means a facility that qualifies under Section 324 of the Federal Clean Air Act.

- (7) "Operator" means any person who leases, operates, controls, or supervises a facility at which gasoline is dispensed.
- (8) "Owner" means any person who has legal or equitable title to the gasoline storage tank at a facility.
- (9) "Stage II Vapor Recovery" means the control of gasoline vapor at the vehicle fill-pipe, where the vapors are captured and returned to a vapor-tight underground storage tank or are captured and destroyed.
- (10) "Throughput" means the amount of gasoline dispensed at a facility during any calendar month.
- (11) "Vapor Recovery Dispenser Riser" means piping rising from the vapor recovery piping to the dispenser.
- (12) "Vapor Recovery Piping" means vapor return piping connecting the storage tank(s) with the vapor recovery dispenser riser(s).

(d) Requirements. Affected facilities shall install the necessary piping for future installation of CARB certified Stage II vapor recovery system. The vapor piping shall extend from the tanks to the pumps. The vapor piping shall be installed in accordance with the following requirements:

- (1) Gasoline vapors shall be:
  - (A) transferred from each gasoline dispenser to the underground storage tank individually, or
  - (B) manifolded through a common header from which a single return line is connected through another manifold to all of the underground tanks.

Each vapor return pipe shall allow the transfer of gasoline vapors to the tank from which the liquid gasoline is being drawn;

- (2) Pipe diameter shall meet manufacturer's specifications. If the manufacturer does not specify diameters, the following minimum pipe diameters apply. If the manufacturer only specifies diameters for part of the system, the following diameters apply for the pipe(s) not specified. All fittings, connectors, and joints shall have an inside diameter equal to the inside diameter of the pipe to which it is ~~attached to:~~ attached. The following diameters are specified for the number of nozzles ~~which that~~ may be operated at the same time:
  - (A) Vapor Recovery Dispenser Risers
    - (i) 3/4" for vapor recovery dispenser risers returning vapors from 1 nozzle; or
    - (ii) 1" for vapor recovery dispenser risers returning vapors from 2 nozzles;
  - (B) Vapor Recovery Piping
    - (i) Two inches for one, two, or three nozzles;
    - (ii) Two and one half inches for four or five nozzles;

- (iii) Three inches for six, seven, eight, or nine nozzles;
- (iv) Three and one half inches for 10, 11, or 12 nozzles; or
- (v) Four inches for more than 12 nozzles;

- (3) All piping and fittings shall be installed in accordance with manufacturer's instructions and specifications. Metal pipe shall be minimum schedule 40 welded or seamless steel per ASTM A-53, "Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless Pipe". Fittings shall be 150 pounds cold water screwed malleable iron. Pipe and fittings shall be galvanized and pipe threads shall be zinc-coated. Nonmetallic pipes and fittings shall be U/L listed under nonmetallic primary pipes and fittings for underground flammable liquids (gas and oil equipment directory);
- (4) Each vapor return pipe shall slope towards toward the storage tank with a minimum grade of 1/4 inches per foot. No low points or sags shall exist along the return piping;
- (5) All vapor return and vent piping shall be provided with flexible joints or swing joints at each tank connection and at the base of the vent pipe riser where it fastens to a building or other structure;
- (6) All vapor return pipe-trenching shall be compacted to 90 percent of the standard proctor according to ASTM D-698 "Laboratory Compaction Characteristics of Soil Using Standard Effort" of the area soil before the pipes are installed and back-filled with sand or other material approved by the pipe manufacturer at least six inches below and above the piping;
- (7) The pipes shall not be driven over or in any other way crushed prior to before paving or surfacing;
- (8) The vapor return piping or manifolded piping on a vacuum assisted system shall enter a separate opening to the tank from that connected to the vent pipe or the Stage I piping;
- (9) All vapor return piping shall be tagged at the termination point recording the function of the piping. In addition, a record of the installation of the Stage II vapor return piping shall be kept in the facility;
- (10) Vent piping shall be constructed of materials in accordance with Subparagraph (3) of this Paragraph;
- (11) All vent pipes shall be a minimum of two inches inside diameter or meet the local Fire Codes; and
- (12) All vent pipes shall slope towards toward the underground storage tank with a grade of at least 1/4 inch per linear foot.

(e) Compliance Schedule. Compliance under Paragraph (d) of this Rule by the affected facility shall coincide with the completion of the tank installation or repair. Facilities that lose their exemption under Paragraph (b) of this Rule shall comply

with this Rule within 18 months after the day the owner or operator of the facility has been notified by the Director that his exemption under Paragraph (b) of this Rule has been revoked.

(f) Testing Requirements.

- (1) Within 30 days after installation of the vapor return piping, the owner or operator of the facility shall submit reports of the following tests to be completed as described in EPA-450/3-91-022b:
  - (A) Bay Area Source Test Procedure ST-30, Leak Test Procedure, or San Diego Test Procedure TP-91-1, Pressure Decay/Leak Test Procedure, and
  - (B) Bay Area Source Test Procedure ST-27, Dynamic Back Pressure, or San Diego Test Procedure TP-91-2, Pressure Drop vs Flow/Liquid Blockage Test Procedure.
- (2) Testing shall be in accordance with Rule .0912 of this Section.
- (3) The owner or operator of the facility shall notify the Regional Office Supervisor by telephone at least five business days before back-filling the trenches and at least 10 business days before the tests given in Subparagraph (1) of this Paragraph are to be performed to allow inspection by the Division. The owner or operator may commence back-filling five days after notification has been given to the Division.
- (4) The owner or operator of the facility and the test contractor shall report all test failures to the Regional Office Supervisor within 24 hours of the failure.
- (5) The Director may require the owner or operator of the facility to perform any of the tests in Subparagraph (1) of this Paragraph if there are any modifications or repairs.
- (6) Where the Division conducts a test on the vapor control system, it shall be without compensating the owner or operator of the facility for any lost revenues incurred due to the testing procedure.

(g) Referenced documents.

- (+) EPA-450/3-91-022b, "Technical Guidance - Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Volume II: Appendices", November 1991, cited in this Rule is hereby incorporated by reference and does not include subsequent amendments or editions. A copy of this document is available for inspection at the Regional Offices of the North Carolina Department of Environment, Health, and Natural Resources (Addresses are given in Rule .0103 of this Subchapter). Copies of this document may be obtained through the Library Services Office (MD-35), U. S. Environmental Protection Agency, Research Triangle Park or National Technical Information Services (NTIS), 5285 Port Royal Road, Springfield VA 22161. The NTIS number for this document is PB-92132851, and the cost is fifty-two dollars (\$52.00).

~~(2) The American Society for Testing and Materials~~

(ASTM) specification and test methods cited in this Rule are hereby incorporated by reference including any subsequent amendments and editions. A copy of the ASTM specification and test method can be obtained from the Air Quality Section, Division of Environmental Management, P.O. Box 29525, Raleigh, North Carolina 27626, at no cost.

Authority G.S. 143-215.3(a)(1); 143-215.107(a); 150B-21.6.

## SECTION .1000 - MOTOR VEHICLE EMISSION CONTROLS STANDARDS

### .1005 MEASUREMENT AND ENFORCEMENT

The methods and equipment for measuring the exhaust emissions are specified in Appendix G of the North Carolina State Implementation Plan for Air Quality as set forth by the North Carolina Division of Air Quality, Environmental Management. The methods for enforcing the standards of this Section are contained in the "Safety, Emissions, Windshield Procedures Manual" as set forth by the North Carolina Division of Motor Vehicles. ~~The documents adopted by reference in this Section shall automatically include any later amendments thereto as allowed by G.S. 150B-14(c). These two documents are hereby incorporated by reference and include subsequent amendments or editions. Copies of these documents are available for inspection at the Division of Air Quality, 2728 Capital Boulevard, Raleigh, North Carolina. Copies of these documents may be purchased from the Air Quality Division, P. O. Box 29580, Raleigh, North Carolina 27626-0580 at a price of twenty cents (\$0.20) per page.~~

Authority G.S. 20-128.2(a); 143-215.3(a)(1); 143-215.107(a)(3); 143-215.107(a)(6); 143-215.107(a)(7); 150B-14(c).

## SECTION .1100 - CONTROL OF TOXIC AIR POLLUTANTS

### .1107 MULTIPLE FACILITIES

(a) If an acceptable ambient level in Rule .1104 of this Section is exceeded because of emissions of two or more facilities and if public exposure is such that the commission has evidence that human health may be adversely affected, then the Commission ~~commission~~ shall require the subject facilities to apply addition controls or to otherwise reduce emissions. The type of evidence that the Commission ~~commission~~ shall consider shall include one or more of the following:

- (1) emission inventory,
- (2) ambient monitoring,
- (3) modeling, or
- (4) epidemiological study.

(b) The allocation of the additional reductions shall be based on the relative contributions to the pollutant concentrations unless the owners or operators agree otherwise.

(c) The owner or operator of a facility shall not be required to conduct the multi-facility ambient impact analysis described

in Paragraph (a) of this Rule. This type of analysis shall be done by the Division of Environmental Management, Air Quality. In performing its analysis, the Division of Environmental Management shall:

- (1) develop a modeling plan that includes the elements set out in Paragraph (f) of Rule .1106 of this Section;
- (2) use for the source modeling parameters, the modeling parameters used by the owner or operator of the source in his modeling demonstration, or if a modeling demonstration has not been done or if a needed parameter has not been used in the modeling demonstration, parameters contained in, or derived from data contained in, the source's permit;
- (3) use a model allowed by Paragraph (c) of Rule .1106 of this Section;
- (4) model for cavity effects and comply with the modeling requirements for stack height set out in Rule .0533 of this ~~Section~~ Section;
- (5) use the time periods required by Paragraph (d) of Rule .1106 of this Section; and
- (6) only consider impacts of a facility's emissions beyond the premises of that facility.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3), (5); 143B-282.

## SECTION .1200 - CONTROL OF EMISSIONS FROM INCINERATORS

### .1204 REPORTING AND RECORDKEEPING

(a) The reporting and recordkeeping requirements of Rule .1105 of this Subchapter shall apply to all incinerators in addition to any reporting and recordkeeping requirements that may be contained in any other rules.

(b) The owner or operator of an incinerator, except an incinerator meeting the requirements of 15A NCAC 2D .1201 (e), shall maintain and operate a continuous temperature monitoring ~~measuring~~ and recording device for the primary chamber and, where there is a secondary chamber, for the secondary chamber. The Director may require a temperature monitoring device for incinerators meeting the requirements of 15A NCAC 2D .1201 (e). The owner or operator of an incinerator that has installed air pollution abatement equipment to reduce emissions of hydrogen chloride shall install, operate, and maintain continuous monitoring equipment to measure pH for wet scrubber systems and rate of alkaline injection for dry scrubber systems. The Director shall require the owner or operator of an incinerator with a permitted charge rate of 750 pounds per hour or more to install, operate, and maintain continuous monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the incinerator. The Director may require the owner or operator of an incinerator with a permitted charge rate of less than 750 pounds per hour to install, operate, and maintain monitors for oxygen or for carbon monoxide or both as necessary to determine proper operation of the incinerator.

(c) In addition to the requirements of Paragraphs (a) and (b)



of this Rule, the owner or operator of a sewage sludge incinerator shall:

- (1) install, operate, and maintain, for each incinerator, continuous emission monitors to determine the following:
  - ~~(A)~~ (B) mercury emissions by use of Method 105 of 40 CFR Part 61, Appendix B, where applicable to 40 CFR 61.55(a);
  - ~~(B)~~ (A) total hydrocarbon concentration of the incinerator stack exit gas in accordance with 40 CFR 503.45(a) unless the requirements for continuously monitoring carbon monoxide as provided in 40 CFR 503.40(c) are satisfied;
  - ~~(C)~~ (B) oxygen concentration of the incinerator stack exit gas; and
  - ~~(D)~~ (C) moisture content of the incinerator stack exit gas;
- (2) monitor the concentrations of beryllium and mercury from the sludge fed to the incinerator at least as frequently as required under Rule .1110 of this Subchapter but in no case less than once per year;
- (3) monitor the concentrations of arsenic, cadmium, chromium, lead, and nickel in the sewage sludge fed to the incinerator at least as frequently as required under 40 CFR 503.46(a)(2) and (3);
- (4) determine mercury emissions by use of Method 105 of 40 CFR Part 61, Appendix B, where applicable to 40 CFR 61.55(a);
- ~~(4)~~ (5) maintain records of all material required under Rule .1203 and .1204 of this Section in accordance with 40 CFR 503.47; and
- ~~(5)~~ (6) for class I sludge management facilities (as defined in 40 CFR 503.9), POTWs (as defined in 40 CFR 501.2) with a design flow rate equal to or greater than one million gallons per day, and POTWs that serve a population of 10,000 people or greater, submit the information recorded in Subparagraph (c)(4) of this Rule to the Director on or before February 19 of each year.

(d) All monitoring devices and systems required by this Rule shall be subject to a quality assurance program approved by the Director. Such quality assurance program shall include procedures and frequencies for calibration, standards traceability, operational checks, maintenance, auditing, data validation, and a schedule for implementing the quality assurance program.

*Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4), (5).*

**.1206 OPERATIONAL STANDARDS**

- (a) The operational standards in this Rule do not apply to incinerators where operational standards in Rule .0524, .1110, or .1111 of this Subchapter apply.
- (b) Hazardous waste incinerators. Hazardous waste incinerators shall comply with 15A NCAC 13A .0001 through .0014, which are administered and enforced by the Division of Solid Waste Management.

(c) Medical waste incinerators. Medical waste incinerators shall meet the following requirements:

- ~~(1)~~ The primary chamber temperature shall be at least 1200°F.
- ~~(2)~~ (1) The secondary chamber temperature shall be at least 1800°F.
- ~~(3)~~ (2) Gases generated by the combustion shall be subjected to a minimum temperature of 1800°F for a period of not less than one second.

Medical waste incinerators shall comply with 15A NCAC 13B .1207(3) and any other pertinent parts of 15A NCAC 13B .1200, which are administered and enforced by the Division of Solid Waste Management.

(d) Municipal solid waste incinerators. Municipal solid waste incinerators shall meet the following requirements:

- (1) The concentration of carbon monoxide at the combustor outlet shall not exceed the concentration in Table 1 of Paragraph (a) of 40 CFR 60.36a. The incinerator technology named in this table is defined under 40 CFR 60.51a.
- (2) The temperature of the exhaust gas entering the particulate matter control device shall not exceed 450°F.
- (3) Gases generated by the combustion shall be subjected to a minimum temperature of 1800°F for a period of not less than one second.

(e) Sludge incinerators. The combustion temperature in a sludge incinerator shall not be less than 1200°F. The maximum oxygen content of the exit gas from a sludge incinerator stack shall be:

- (1) 12 percent (dry basis) for a multiple hearth sludge incinerator,
- (2) seven percent (dry basis) for a fluidized bed sludge incinerator,
- (3) nine percent (dry basis) for an electric sludge incinerator, and
- (4) 12 percent (dry basis) for a rotary kiln sludge incinerator.

(f) Sewage sludge incinerators.

- (1) The maximum combustion temperature for a sewage sludge incinerator shall be placed in the permit and based on information obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies.
- (2) The values for the operational parameters for the sewage sludge incinerator air pollution control device(s) shall be placed in the permit and be based on information obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies.
- (3) The monthly average concentration for total hydrocarbons, or carbon monoxide as provided in 40 CFR 503.40(c), in the exit gas from a sewage sludge incinerator stack, corrected to zero percent moisture and seven percent oxygen as specified in 40 CFR 503.44, shall not exceed 100 parts per million on a volumetric basis using the continuous emission

monitor required in Subparagraph .1204(c)(1) of this Subchapter.

(g) Crematory incinerators. Gases generated by the combustion shall be subjected to a minimum temperature of 1600°F for a period of not less than one second.

(h) Other incinerators. All incinerators not covered under Paragraphs (a) through (g) of this Rule shall meet the following requirement: Gases generated by the combustion shall be subjected to a minimum temperature of 1800°F for a period of not less than one second. The temperature of 1800°F shall be maintained at least 55 minutes out of each 60-minute period, but at no time shall the temperature go below 1600°F.

(i) Except during start-up where the procedure has been approved in accordance with Rule .0535(g) of this Subchapter, waste material shall not be loaded into any incinerators covered under Paragraphs (c), (d), (g), or (h) when the temperature is below the minimum required temperature. Start-up procedures may be determined on a case-by-case basis in accordance with Rule .0535(g) of this Subchapter. Incinerators covered under Paragraphs (c), (d), (g), or (h) shall have automatic auxiliary burners that are capable of maintaining the required minimum temperature in the secondary chamber excluding the heat content of the wastes.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

## SECTION .1300 - OXYGENATED GASOLINE STANDARD

### .1305 MEASUREMENT AND ENFORCEMENT

(a) Gasoline samples shall be taken and handled by methods approved by the Gasoline and Oil Inspection Board.

(b) Gasoline samples shall be analyzed by the American Society for Testing and Materials (ASTM) standard test method, designation D 4815-89 or by other methods approved by the Gasoline and Oil Inspection Board and the United States Environmental Protection Agency.

(c) Enforcement shall be in accordance with procedures adopted by the Gasoline and Oil Inspection Board in 2 NCAC 42 Section .0100.

~~(d) The ASTM test method cited in this Rule is hereby incorporated by reference including any subsequent amendments and editions. A copy of the ASTM test method can be obtained from the Air Quality Section, Division of Environmental Management, P. O. Box 29525, Raleigh, North Carolina 27626, at no cost.~~

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(7); 119-26; 150B-21.6.

## SECTION .1500 - TRANSPORTATION CONFORMITY

### .1503 TRANSPORTATION CONFORMITY DETERMINATION

(a) Conformity analyses, determinations, and redeterminations for transportation plans, transportation

improvement programs, FHWA/FTA projects, and State or local projects shall be made according to the requirements of 40 CFR 51.400 and shall comply with the applicable requirements of 40 CFR 51.456 and 51.458. For the purposes of this Rule, State or local projects shall be subject to the same requirements under 40 CFR Part 51 as FHWA/FTA projects.

(b) Before making a conformity determination, the metropolitan planning organizations, local transportation departments, North Carolina Department of Transportation, United States Department of Transportation, the Division of Air Quality Environmental Management, local air pollution control agencies, and United States Environmental Protection Agency shall consult with each other on matters described in 40 CFR 51.402(c). Consultation shall begin as early as possible in the development of the emissions analysis used to support a conformity determination. The agency that performs the emissions analysis shall make the analysis available to the Division of Air Quality Environmental Management and the general public for comments; at least two weeks shall be allowed for review and comment on the emissions analysis. The agency that performs the emissions analysis shall address all comments received and these comments and responses thereto shall be included in the final document. ~~In the event that If the Division of Air Quality Environmental Management disagrees with the resolution of its comments, the conflict may be escalated to the Governor within 14 days and shall be resolved in accordance with 40 CFR 51.402(d). The 14-day appeal period shall begin when the North Carolina Department of Transportation or the metropolitan planning organization notifies the Director in writing of the resolution of the comments. Any consultation undertaken after the conformity determination is made shall include the Division of Air Quality Environmental Management.~~

(c) The agency that performs the conformity analysis shall notify the Division of Air Quality Environmental Management of:

- (1) any changes in planning or analysis assumptions (including land use and vehicle miles traveled (VMT) forecasts), and
- (2) any revisions to transportation plans or transportation improvement plans that add, delete, or change projects that require a new emissions analysis (including design scope and dates).

The agency that performs the conformity analysis shall allow the Division of Air Quality Environmental Management at least two weeks to review and comment on the proposed change. Comments made by the Division of Air Quality Environmental Management and responses thereto made by the agency shall become part of the final planning document.

(d) Transportation plans shall satisfy the requirements of 40 CFR 51.404. Transportation plans and transportation improvement programs shall satisfy the fiscal constraints specified in 40 CFR 51.408. Transportation plans, programs, and FHWA/FTA projects shall satisfy the applicable requirements of 40 CFR 51.410 through 51.448.

(e) No recipient of federal funds designated under Title 23 U.S.C. or the Federal Transit Act shall adopt or approve, nor



any other person construct, a regionally significant highway or transit project, regardless of funding source, unless there is a currently conforming transportation plan and transportation improvement program consistent with the requirements of 40 CFR 51.420 and the project conforms with the applicable implementation plan consistent with the requirements of 40 CFR 51.450.

(f) The degree of specificity required in a transportation plan and the specific travel network assumed for air quality modeling shall not preclude the consideration of alternatives in the National Environmental Policy Act of 1969 process, in accordance with 40 CFR 51.406

(g) When assisting or approving any action with air quality-related consequence, the Federal Highway Administration and the Federal Transit Administration of the Department of Transportation shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the national ambient air quality standards. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.

*Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10).*

## **SECTION .1600 - GENERAL CONFORMITY**

### **.1603 GENERAL CONFORMITY DETERMINATION**

(a) The appropriate federal agency shall make a determination that a federal action conforms with the maintenance plans for the areas identified in Rule .1601 of this Section in accordance with the requirements of this Section before the action is taken with the exceptions specified in 40 CFR 51.850(c). A conformity determination is required for each pollutant where the total of direct and indirect emissions caused by a federal action would equal or exceed 100 tons per year of carbon monoxide, nitrogen oxides, or volatile organic compounds, with the exceptions specified in 40 CFR 51.853(c), (d), or (e). The Division of Environmental Management shall provide technical assistance for the analysis necessary to determine the conformity of the federal action.

(b) Notwithstanding any other requirements of this Section, actions specified by individual federal agencies that have met the requirements of 40 CFR 51.853(g) and (h) are presumed to conform, except as provided in 40 CFR 51.853(j). Where 40 CFR 51.853(j) is applicable, the requirements of 40 CFR 51.853(j) shall apply.

(c) Any federal department, agency, or instrumentality of the federal government taking an action subject to this Section shall comply with the requirements of 40 CFR 51.854 through 51.859. Any measures that are intended to mitigate air quality impacts shall comply with the requirements of 40 CFR 51.860.

(d) Notwithstanding any other requirement of this Section, when the total direct and indirect emissions of any pollutant from a federal action does not equal or exceed the rates specified in 40 CFR 51.853(b), but represents ten percent or more of the maintenance area's total emissions of that pollutant,

the action is defined as a regionally significant action and the requirements of 40 CFR 51.850 and 51.855 through 51.860 shall apply for the federal action.

(e) Notwithstanding any provision of this Section, a determination that an action is in conformance with the applicable maintenance plan does not exempt the action from any other requirement of the applicable maintenance plan, the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), or the federal Clean Air Act.

*Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10).*

## **SECTION .1700 - CONTROL OF EMISSIONS FROM MUNICIPAL SOLID WASTE LANDFILLS**

### **.1701 DEFINITIONS**

For the purpose of this Rule the definitions contained in 40 CFR 60.751 shall apply.

*Authority G.S. 143-215.3(a)(1); 143-213.*

### **.1702 APPLICABILITY**

(a) All existing MSW landfills that meet the following conditions are subject to this Section:

- (1) The landfill has accepted waste at any time since November 8, 1987, or has additional permitted capacity available for future waste deposition and has not been documented as being permanently closed; and
- (2) The landfill was in operation, or construction, reconstruction, or modification was commenced before May 30, 1991.

(b) Physical or operational changes made to an existing MSW landfill solely to comply with an emission standard under this Section are not considered a modification or reconstruction, and do not subject an existing MSW landfill to the requirements of 40 CFR 60, Subpart WWW or 15A NCAC 2D .0524.

*Authority G.S. 143-213; 143-215.3(a)(1); 143-215.107(a)(5), (10).*

### **.1703 EMISSION STANDARDS**

(a) Any MSW landfill subject to this Section and meeting the following two conditions shall meet the gas collection and control requirements of Paragraph (b) of this Rule:

- (1) The landfill has a design capacity greater than or equal to 2.75 million tons or 2.5 million cubic meters. The owner or operator of the landfill may calculate the design capacity in either tons or cubic meters for comparison with the exemption values. Any density conversion shall be documented and submitted along with the initial reporting requirements of Rule .1708(a) of this Section; and
- (2) The landfill has a non-methane organic compound (NMOC) emission rate of 55 tons per year or more. The NMOC emission rate shall be calculated by

following the procedures outlined in 40 CFR 60.754.

(b) Each owner or operator of a MSW landfill meeting the conditions of Paragraph (a) of this Rule shall:

- (1) submit to the Director a site-specific design plan for the gas collection and control system that meets the requirements of 40 CFR 60.752(b)(2)(i);
- (2) install a gas collection system that meets the requirements of 40 CFR 60.752(b)(2)(ii); and
- (3) control the collected emissions of MSW landfill gas through the use of one or more of the following control devices:

(A) An open flare designed and operated in accordance with the parameters established in 40 CFR 60.18;

(B) A control system designed and operated to reduce NMOC by 98 weight percent; or

(C) An enclosed combustor designed and operated to reduce the outlet NMOC concentration to 20 parts per million as hexane by volume, on a dry basis at three percent oxygen, or less.

(c) The gas collection and control system required under Paragraph (b) of this Rule may be capped or removed provided that all the conditions of 40 CFR 60.752(b)(2)(v)(A), (B) and (C) are met.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10).

#### .1704 TEST METHODS AND PROCEDURES

The MSW landfill NMOC emission rate shall be calculated by following the procedures in 40 CFR 60.754, as applicable, in order to determine whether the landfill meets the conditions of Rule .1703(a)(2) of this Section.

Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5), (10).

#### .1705 OPERATIONAL STANDARDS

The owner and operator of a MSW landfill required to install a landfill gas collection and control system to comply with Rule .1703(b) of this Section shall:

- (1) operate the collection system in accordance with 40 CFR 60.753(a);
- (2) operate the collection system with negative pressure at each wellhead in accordance with 40 CFR 60.753(b);
- (3) operate each interior wellhead in the collection system in accordance with 40 CFR 60.753(c);
- (4) operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner and operator shall follow the procedures given in 40 CFR 60.753(d);
- (5) operate the collection system such that all collected gases are vented to a control system designed and operated in compliance with Rule .1703(b)(3) of this Section. In the event that the gas collection and

control system is inoperable, measures shall be taken as outlined in 40 CFR 60.753(e);

(6) operate the control system at all times when the collected gas is routed to the control system;

(7) take corrective action as specified in 40 CFR 60.755(c) if monitoring demonstrates that the operation standards and requirements of Items (2), (3), and (4) of this Rule are not met. If the required corrective actions are taken, the emissions monitored shall not be considered a violation of the operational standards of this Rule.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10).

#### .1706 COMPLIANCE PROVISIONS

(a) Compliance with Rule .1703(b) of this Section shall be determined using the provisions of 40 CFR 60.755(a).

(b) Compliance with Rule .1705(1) of this Section shall be determined using the provisions of 40 CFR 60.755(b).

(c) Compliance with the surface methane operational standards of Rule .1705(4) of this Section shall be achieved using the procedures of 40 CFR 60.755(c) and (d).

(d) The provisions of this Rule apply at all times, except during periods of start-up, shutdown, or malfunction, provided that the duration of start-up, shutdown, or malfunction shall not exceed five days for collection systems and shall not exceed one hour for treatment or control devices.

Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5), (10).

#### .1707 MONITORING PROVISIONS

(a) The owner or operator of a MSW landfill who is required to comply with Rule .1703(b)(2) of this Section for an active gas collection system shall perform the monitoring requirements as outlined in 40 CFR 60.756(a).

(b) The owner or operator of an MSW landfill seeking to comply with the provisions of Rule .1703(b)(3)(C) of this Section using an enclosed combustor shall perform the monitoring requirements as outlined in 40 CFR 60.756(b).

(c) The owner or operator of an MSW landfill seeking to comply with the provisions of Rule .1703(b)(3)(A) of this Section using an open flare shall perform the monitoring requirements as outlined in 40 CFR 60.756(c).

(d) The owner or operator of an MSW landfill seeking to comply with the provisions of Rule .1703(b)(3) of this Section using a device other than an open flare or an enclosed combustor shall comply with the provisions of 40 CFR 60.756(d).

(e) The owner or operator of an MSW landfill seeking to comply with the provisions of Rule .1703(b)(3)(B) of this Section using an active collection system or seeking to monitor alternative parameters to those required by Rule .1704 through .1707 of this Section shall comply with the provisions of 40 CFR 60.756(e).

(f) The owner or operator of an MSW landfill seeking to comply with the provisions of Rule .1706(c) of this Section

shall do so in accordance with 40 CFR 60.756(f).

*Authority* G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5), (10).

### **.1708 REPORTING REQUIREMENTS**

(a) The owner or operator of a MSW landfill subject to this Rule according to Rule .1702 of this Section shall submit an initial design capacity report to the Director in accordance with the following:

- (1) The initial design capacity report shall fulfill the requirements of the notification of the date construction is commenced as required under 40 CFR 60.7(a)(1) and shall be submitted no later than the earliest of the day from the dates given in 40 CFR 60.757(a)(1)(i) through 40 CFR 60.757(a)(1)(iii);
- (2) The initial design capacity report shall contain the information given in 40 CFR 60.757(a)(2)(i) and 40 CFR 60.757(a)(2)(ii); and
- (3) An amended design capacity report shall be submitted to the Director in accordance with 40 CFR 60.757(a)(3) whenever an increase in the design capacity of the landfill results in the design capacity of the landfill to exceed 2.5 million cubic meters or 2.75 million tons.

(b) The owner or operator of a MSW landfill subject to this Section shall submit a NMOC emission report to the Director initially and annually thereafter, except as provided for in 40 CFR 60.757(b)(1)(ii) or (b)(3). The initial NMOC emission rate report shall be submitted within 90 days of the day waste acceptance commences and may be combined with the initial design capacity report required in Paragraph (a) of this Section. The NMOC emission rate report shall:

- (1) contain an annual or five-year estimate of the NMOC emission rate calculated using the formula and procedures provided in 40 CFR 60.754(a) or (b), as applicable; and
- (2) include all the data, calculations, sample reports and measurements used to estimate the annual or five-year emissions.

(c) The owner or operator of a MSW landfill subject to Rule .1703(b) of this Section shall submit a collection and control system design plan to the Director within one year of the first report, required under Paragraph (b) of this Rule, in which the emission rate exceeds 55 tons per year, except as provided for in 40 CFR 60.757(c)(1) and (2).

(d) The owner or operator of a controlled landfill shall submit a closure report to the Director within 30 days of cessation of waste acceptance. If a closure report has been submitted to the Director, no additional waste shall be placed into the landfill without first filing a notification of modification as described under 40 CFR 60.14. The Director may request such additional information as may be necessary to verify that permanent closure of the MSW landfill has taken place in accordance with the requirements of 40 CFR 258.60.

(e) The owner or operator of a controlled MSW landfill shall submit an equipment removal report 30 days prior to removal

or cessation of operation of the control equipment according to Rule .1703(c) of this Section. The report shall contain the items listed in 40 CFR 60.757(e)(1). The Director may request such additional information as may be reasonably necessary to verify that all the conditions for removal in 40 CFR 60.752(b)(2)(v) have been met.

(f) The owner or operator of a MSW landfill seeking to comply with Rule .1703(b)(2) of this Section using an active collection system designed in accordance with 40 CFR 60.752(b)(2)(ii) shall submit annual reports of the recorded information in 40 CFR 60.757(f)(1) through (f)(6). The initial annual report shall be submitted within 180 days of installation and start-up of the collection and control system, and shall include the initial performance test report required under 40 CFR 60.8.

(g) The owner or operator of a MSW landfill seeking to comply with Rule .1703(b)(3) of this Section using an enclosed combustion devices or flares shall report the exceedences as defined in 40 CFR 60.758(c)(1).

(h) The owner or operator of a MSW landfill required to comply with Rule .1703(b)(1) of this Section shall include the information given in 40 CFR 60.757(g)(1) through (6) with the initial performance test report required under 40 CFR 60.8.

*Authority* G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5), (10).

### **.1709 RECORDKEEPING REQUIREMENTS**

(a) The owner or operator of a MSW landfill subject to this Section and having a maximum design capacity greater than 2.5 million cubic meters or 2.75 million tons shall keep on-site for at least five years records of the information listed in 40 CFR 60.758(a). Off-site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats of the records shall be acceptable.

(b) The owner or operator of a controlled landfill shall keep up-to-date, readily accessible records for the life of the control equipment of the data listed in 40 CFR 60.757(b)(1) through (b)(4) as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be maintained for a minimum of five years. Records of the control device vendor specifications shall be maintained until removal.

(c) Each owner or operator of a MSW landfill subject to this Section shall keep for five years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in Rule .1707 of this Section and records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The parameter boundaries considered in excess of those established during the performance test are defined in 40 CFR 60.757(c)(1)(i) and (ii) and are also required to be reported under Rule .1708(g) of this Section.

(d) The owner or operator of a MSW landfill subject to Rule .1703(b) of this Section shall keep for the life of the collection system an up-to-date, readily accessible plot map showing existing and planned collectors in the system and provide

unique identification location labels for each collector. Records of newly installed collectors shall be maintained in accordance with 40 CFR 60.758(d)(1) and documentation of asbestos-containing or nondegradable waste excluded from collection shall be kept in accordance with 40 CFR 60.758(d)(2).

(e) The owner or operator of a MSW landfill subject to Rule .1703(b) of this Section shall keep for at least five years records of emissions from the collection and control system exceeding the emission standards in accordance with 40 CFR 60.758(e).

Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4), (5), (10).

## .1710 COMPLIANCE SCHEDULES

(a) Except as provided for in Paragraph (b) of this Rule, the schedule for compliance with the requirements of this Section shall meet the following deadlines:

- (1) Each existing MSW landfill subject to this Section according to Rule .1702 of this Section and exceeding the design capacity limitation of Rule .1703(a)(1) of this Section shall submit an application for a permit under 15A NCAC 2Q .0500 by July 1, 1999.
- (2) Each existing MSW landfill subject to this Section according to Rule .1702 of this Section and exceeding the design capacity and NMOC emission rate limitations of Rule .1703(a)(1) and (2) of this Section shall:
  - (A) submit a site-specific design plan for the gas collection and control system to the Director by July 1, 1999; and
  - (B) plan, award contracts, and install MSW landfill air emission collection and control system capable of meeting the emission standards established under Rule .1703 of this Section by January 1, 2001.

(b) For each existing MSW landfill subject to this Section as specified in Rule .1702 of this Section and meeting the design capacity condition of Rule .1703(a)(1) of this Section whose NMOC emission rate is less than 55 tons per year on July 1, 1998, shall:

- (1) submit a site-specific design plan for the gas collection and control system to the Director within 12 months of first exceeding the NMOC emission rate of 55 tons per year; and
- (2) plan, award contracts, and install MSW landfill air emission collection and control system capable of meeting the emission standards established under Rule .1703 of this Section within 30 months of the date when the conditions in Rule .1703(a)(2) of this Section are met.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4), (5).

## SECTION .1900 - OPEN BURNING

## .1902 DEFINITIONS

For the purpose of this Section, the following definitions apply:

- (1) ~~"AHMB" means the Asbestos Hazard Management Branch of the Division of Epidemiology.~~
- (1)(2) "Air Curtain Burner" means a stationary or portable combustion device that directs a plane of high velocity forced draft air through a manifold head into a pit with vertical walls in such a manner as to maintain a curtain of air over the surface of the pit and a recirculating motion of air under the curtain.
- (2)(3) "Dangerous materials" means explosives or containers used in the holding or transporting of explosives.
- (3) "HHCB" means the Health Hazards Control Branch of the Division of Epidemiology.
- (4) "Land clearing" means the uprooting or clearing of vegetation in connection with construction for buildings; right-of-way; agricultural, residential, commercial, or industrial development; mining activities; or the initial clearing of vegetation to enhance property value; but does not include routine maintenance or property clean-up activities.
- (5) "Log" means any limb or trunk whose diameter exceeds six inches.
- (6) "Nuisance" means causing physical irritation exacerbating a documented medical condition, visibility impairment, or evidence of soot or ash on property or structure other than the property on which the burning is done.
- (7) "Occupied structure" means a building in which people may live or work or one intended for housing farm or other domestic animals.
- (8) "Open burning" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or a permitted air pollution control device.
- (9) "Person" as used in Rule .1901(c) 2D .1901(c), of this Section, means:
  - (a) the person in operational control over the open burning, or
  - (b) the landowner or person in possession or control of the land when he has directly or indirectly allowed the open burning or has benefited from it.
- (10) "Public pick-up" means the removal of refuse, yard trimmings, limbs, or other plant material from a residence by a governmental agency, private company contracted by a governmental agency or municipal service.
- (11) "Public road" means any road that is part of the State highway system; or any road, street, or right-of-way dedicated or maintained for public use.
- (12) "RACM" means regulated asbestos containing material as defined in 40 CFR 61.142.
- (13) "Refuse" means any garbage, rubbish, or trade waste.

- (14) "Regional Office Supervisor" means the supervisor of personnel of the Division of **Environmental Management Air Quality** in a regional office of the Department of Environment, Health and Natural Resources.
- (15) "Salvageable items" means any product or material that was first discarded or damaged and then all, or part, was saved for future use, and include insulated wire, electric motors, and electric transformers.
- (16) "Synthetic material" means man-made material, including tires, asphalt materials such as shingles or asphaltic roofing materials, construction materials, packaging for construction materials, wire, electrical insulation, and treated or coated wood.

*Authority G.S. 143-215.3(a)(1); 143-212; 143-213.*

### **.1903 PERMISSIBLE OPEN BURNING WITHOUT A PERMIT**

(a) All open burning is prohibited except open burning allowed under Paragraph (b) of this Rule or Rule .1904 of this Section.

(b) The following types of open burning are permissible without a permit:

- (1) open burning of leaves, tree branches or yard trimmings, excluding logs and stumps, if the following conditions are met:
  - (A) The material burned originates on the premises of private residences and is burned on those premises;
  - (B) There are no public pickup services available;
  - (C) Non-vegetative materials, such as household garbage or other man-made materials are not burned;
  - (D) The burning is started no earlier than 8:00 a.m. and no additional combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
  - (E) The burning does not create a nuisance; and
  - (F) Material is not burned when the Division of Forest Resources has banned burning for that area;
- (2) open burning for land clearing or right-of-way maintenance if the following conditions are met:
  - (A) Prevailing winds at the time of burning are away from any area, including public road within 250 feet of the burning as measured from the edge of the pavement or other roadway surface, which may be significantly affected by smoke, ash, or other air pollutants from the burning;
  - (B) The location of the burning is at least 1,000 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted. The regional office supervisor may grant

exceptions to the setback requirements if:

- (i) a signed, written statement waiving objections to the open burning associated with the land clearing operation is obtained before the open burning begins from all residents or owners of dwellings, commercial or institutional establishments, or other occupied structures within 1,000 feet of the open burning site, or
  - (ii) an air curtain burner as described in Rule .1904 of this Section, is utilized at the open burning site;
- (C) Heavy oils, asphaltic materials such as shingles and other roofing materials, items containing natural or synthetic rubber, or any materials other than plant growth are not burned. However, kerosene, distillate oil, or diesel fuel may be used to start the fire;
  - (D) Initial burning begins only between the hours of 8:00 a.m. and 6:00 p.m., and no combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day, except that, under favorable meteorological conditions, deviation from these hours of burning may be granted by the regional office supervisor. The owner or operator of the open burning operation shall be responsible for obtaining written approval for burning during periods other than those specified in this Part; and
  - (E) No fires are started or vegetation is added to existing fires when the Division of Forest Resources has banned burning for that area.
- Debris from land clearing or right-of-way maintenance may be carried off-site for open burning to facilities permitted in accordance with Rule .1904 of this Section for the operation of an air curtain burner. However, no material may be taken off-site for open burning in areas where a permitted air curtain burner is not available;
- (3) camp fires and fires used solely for outdoor cooking and other recreational purposes, or for ceremonial occasions, or for human warmth and comfort and which do not create a nuisance and do not use synthetic materials or refuse or salvageable materials for fuel;
  - (4) fires purposely set to forest lands for forest management practices acceptable to the Division of Forest Resources;
  - (5) fires purposely set to agricultural lands for disease and pest control and fires set for other agricultural or apicultural practices acceptable to the Department of Agriculture;
  - (6) fires purposely set for wildlife management practices acceptable to the Wildlife Management Commission;
  - (7) fires for the disposal of dangerous materials when it

- is the safest and most practical method of disposal;
- (8) fires for the disposal of material generated as a result of a natural disaster, such as tornado, hurricane, or flood if the regional office supervisor grants permission for the burning. The person desiring to do the burning shall document to the regional office supervisor of the appropriate regional office that there is no other practical method of disposal of the waste. Factors that the regional office supervisor shall consider in granting permission for the burning include type, amount, and nature of combustible substances. The regional office supervisor shall not grant permission for the burning if the primary purpose of the fire is to dispose of synthetic materials or refuse or recovery of salvageable materials. Fires authorized under this Subparagraph shall comply with the conditions of Subparagraph (b)(2) of this Rule;
  - (9) fires purposely set by manufacturers of fire extinguishing materials or equipment, testing laboratories, or other persons, for the purpose of testing or developing these materials or equipment in accordance with a valid standard qualification program;
  - (10) fires purposely set for the instruction and training of fire-fighting personnel, including fires at permanent fire-fighting training facilities, or when conducted under the supervision of or with the cooperation of one or more of the following agencies:
    - (A) the Division of Forest Resources,
    - (B) the North Carolina Insurance Department,
    - (C) North Carolina technical institutes, or
    - (D) North Carolina community colleges, including:
      - (i) the North Carolina Fire College, or
      - (ii) the North Carolina Rescue College; and
  - (11) fires not described in Subparagraph (10) of this Paragraph, purposely set for the instruction and training of fire-fighting personnel, provided that:
    - (A) The regional office supervisor of the appropriate regional office and the ~~AHMB~~ HHCB have been notified according to the procedures and deadlines contained in the appropriate regional notification form. This form may be obtained by writing the appropriate regional office at the address in Rule .1905 of this Section and requesting it, and
    - (B) The regional office supervisor has granted permission for the burning. Factors that the regional office supervisor shall consider in granting permission for the burning include type, amount, and nature of combustible substances. The regional office supervisor shall not grant permission for the burning of salvageable items, such as insulated wire and electric motors or if the primary purpose of

the fire is to dispose of synthetic materials or refuse. The regional office supervisor of the appropriate regional office shall not consider previously demolished structures as having training value. However, the regional office supervisor of the appropriate regional office may allow an exercise involving the burning of motor vehicles burned over a period of time by a training unit or by several related training units. Any deviations from the dates and times of exercises, including additions, postponements, and deletions, submitted in the schedule in the approved plan shall be communicated verbally to the regional office supervisor of the appropriate regional office at least one hour before the burn is scheduled.

(c) The authority to conduct open burning under this Section does not exempt or excuse any person from the consequences, damages or injuries which may result from this conduct. It does not excuse or exempt any person from complying with all applicable laws, ordinances, rules or orders of any other governmental entity having jurisdiction even though the open burning is conducted in compliance with this Section.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

## SUBCHAPTER 2Q - AIR QUALITY PERMIT PROCEDURES

### SECTION .0100 - GENERAL PROVISIONS

#### .0103 DEFINITIONS

For the purposes of this Subchapter, the definitions in G.S. 143-212 and 143-213 and the following definitions apply:

- (1) "Air Pollutant" means an air pollution agent or combination of such agents, including any physical, chemical, biological, radioactive substance or matter ~~which~~ that is emitted into or ~~that~~ otherwise enters the ambient air. Water vapor is not considered ~~to be~~ an air pollutant.
- (2) "Allowable emissions" mean the maximum emissions allowed by the applicable rules contained in 15A NCAC 2D or by permit conditions if the permit limits emissions to a lesser amount.
- (3) "Alter or change" means to make a modification.
- (4) "Applicable requirements" means:
  - (a) any requirement of Section .0500 of this Subchapter;
  - (b) any standard or other requirement provided for in the implementation plan approved or promulgated by EPA through rulemaking under Title I of the federal Clean Air Act that implements the relevant requirements of the federal Clean Air Act including any revisions to 40 CFR Part 52;
  - (c) any term or condition of a construction permit for a facility covered under 15A NCAC 2D



- .0530, .0531, or .0532;
  - (d) any standard or other requirement under Section 111 or 112 of the federal Clean Air Act, but not including the contents of any risk management plan required under Section 112 of the federal Clean Air Act;
  - (e) any standard or other requirement under Title IV;
  - (f) any standard or other requirement governing solid waste incineration under Section 129 of the federal Clean Air Act;
  - (g) any standard or other requirement under Section 183(e), 183(f), or 328 of the federal Clean Air Act;
  - (h) any standard or requirement under Title VI of the federal Clean Air Act unless a permit for such requirement is not required under this Section;
  - (i) any requirement under Section 504(b) or 114(a)(3) of the federal Clean Air Act; or
  - (j) any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the federal Clean Air Act, but only as it would apply to temporary sources permitted pursuant to 504(e) of the federal Clean Air Act.
- (5) "Applicant" means the person who is applying for an air quality permit from the Division.
  - (6) "Application package" means all elements or documents needed to make an application complete.
  - (7) "CFR" means Code of Federal Regulations.
  - (8) "Construction" means change in the method of operation or any physical change (including on-site fabrication, erection, installation, replacement, demolition, or modification of a source) that results in a change in emissions or affects the compliance status.
  - (9) "Director" means the Director of the Division of Air Quality, Environmental Management.
  - (10) "Division" means the Division of Air Quality, Environmental Management.
  - (11) "EPA" means the United States Environmental Protection Agency or the Administrator of the Environmental Protection Agency.
  - (12) "EPA approves" means full approval, interim approval, or partial approval by EPA.
  - (13) "Equivalent unadulterated fuels" means used oils that have been refined such that the content of toxic additives or contaminants in the oil are no greater than those in unadulterated fossil fuels.
  - (14) "Facility" means all of the pollutant emitting activities, except transportation facilities as defined under Rule .0802 of this Subchapter, that are located on one or more adjacent properties under common control.
  - (15) "Federally enforceable" or "federal-enforceable" means enforceable by EPA.
  - (16) "Fuel combustion equipment" means any fuel burning source covered under 15A NCAC 2D .0503, .0504, ~~.0524(a)(1), (29), (56), or (65)~~, or ~~.0536~~, .0536, or 40 CFR Part 60 Subpart D, Da, Db, or Dc.
  - (17) "Green wood" means wood with a moisture content of 18 percent or more.
  - (18) "Hazardous air pollutant" means any pollutant ~~which~~ that has been listed pursuant to Section 112(b) of the federal Clean Air Act. Pollutants ~~which are~~ listed only in 15A NCAC 2D .1104 (Toxic Air Pollutant Guidelines), but not pursuant to Section 112(b), are not included in this definition.
  - (19) "Insignificant activities" means any activity exempted under Rule .0102 of this Section.
  - (20) "Irrevocable contract" means a contract that cannot be revoked without substantial penalty.
  - (21) "Lesser quantity cutoff" means:
    - (a) for a source subject to the requirements of Section 112(d) or (j) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which the following are not required:
      - (i) maximum achievable control technology (MACT) or generally available control technology (GACT), including work practice standards, requirement under Section 112(d) of the federal Clean Air Act;
      - (ii) substitute MACT or GACT adopted under Section 112(l) of the federal Clean Air Act; or
      - (iii) a MACT standard established under Section 112(j) of the federal Clean Air Act;
    - (b) for modification of a source subject to, or may be subject to, the requirements of Section 112(g) of the federal Clean Air Act, the level of emissions of hazardous air pollutants below which MACT is not required to be applied under Section 112(g) of the federal Clean Air Act; or
    - (c) for all other sources, potential emissions of each hazardous air pollutant below 10 tons per year and the aggregate potential emissions of all hazardous air pollutants below 25 tons per year.
  - (22) "Major facility" means a major source as defined under 40 CFR 70.2.
  - (23) "Modification" means any physical change or change in method of operation that results in a change in emissions or affects compliance status of the source or facility.
  - (24) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, source, or air pollution control equipment.
  - (25) "Peak shaving generator" means a generator that is

located at a facility and is used only to serve that facility's on-site electrical load during peak demand periods for the purpose of reducing the cost of electricity; it does not generate electricity for resale. A peak shaving generator may also be used for emergency backup.

- (26) "Permit" means the legally binding written document, including any revisions thereto, issued pursuant to G.S. 143-215.108 to the owner or operator of a facility or source that emits one or more air pollutants and that allows that facility or source to operate in compliance with G.S. 143-215.108. This document specifies the requirements applicable to the facility or source and to the permittee.
- (27) "Permittee" means the person who has received an air quality permit from the Division.
- (28) "Potential emissions" means the rate of emissions of any air pollutant ~~which~~ that would occur at the facility's maximum capacity to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a facility to emit an air pollutant shall be treated as a part of its design if the limitation is federally enforceable. Such physical or operational limitations include air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed. Potential emissions include fugitive emissions as specified in the definition of major source in 40 CFR 70.2. Potential emissions do not include a facility's secondary emissions such as those from motor vehicles associated with the facility and do not include emissions from insignificant activities listed in Rule .0102(b)(1) of this Section. If a rule in 40 CFR Part 63 uses a different methodology to calculate potential emissions, that methodology shall be used for sources and pollutants covered under that rule.
- (29) "Portable generator" means a generator permanently mounted on a trailer or a frame with wheels.
- (30) "Regulated air pollutant" means:
  - (a) nitrogen oxides or any volatile organic compound as defined under 40 CFR 51.100;
  - (b) any pollutant for which there is an ambient air quality standard under 40 CFR Part 50 ;
  - (c) any pollutant regulated under 15A NCAC 2D .0524, .1110, or .1111 or 40 CFR Part 60, 61, or 63;
  - (d) any pollutant subject to a standard promulgated under Section 112 of the federal Clean Air Act or other requirements established under Section 112 of the federal Clean Air Act, including Section 112(g) (but only for the facility subject to Section 112(g)(2) of the federal Clean Air Act), (j), or (r) of the federal Clean Air Act; or
  - (e) any Class I or II substance listed under Section

602 of the federal Clean Air Act.

- (31) "Source" means any stationary article, machine, process equipment, or other contrivance, or combination thereof, from which air pollutants emanate or are emitted, either directly or indirectly.
- (32) "Toxic air pollutant" means any of the carcinogens, chronic toxicants, acute systemic toxicants, or acute irritants ~~that are~~ listed in 15A NCAC 2D .1104.
- (33) "Transportation facility" means a complex source as defined at G.S. 143-213(22) that is subject to the requirements of 15A NCAC 2D .0800.
- (34) "Unadulterated fossil fuel" means fuel oils, coal, natural gas, or liquefied petroleum gas to which no toxic additives have been added that could result in the emissions of a toxic air pollutant listed under 15A NCAC 2D .1104.

Authority G.S. 143-215.3(a)(1); 143-212; 143-213.

#### .0108 DELEGATION OF AUTHORITY

The Director may delegate the processing of permit applications and the issuance of permits to the Deputy Director, ~~the Chief of the Air Quality Section~~, the regional office air quality supervisor, ~~any air quality supervisor in the regional offices~~, or any supervisor in the Permitting Section Branch of the Division of Air Quality Section as he considers appropriate. This delegation shall not include the authority to deny a permit application or to revoke or suspend a permit.

Authority G.S. 143-215.3(a)(1), (4).

### SECTION .0200 - PERMIT FEES

#### .0207 ANNUAL EMISSIONS REPORTING

(a) The owner or operator of a Title V facility shall report by June 30th of each year the actual emissions during the previous calendar year of:

- (1) volatile organic compounds,
- (2) nitrogen oxides,
- (3) total suspended particulates,
- (4) sulfur dioxide,
- (5) fluorine,
- (6) hydrogen chloride,
- (7) hydrogen fluoride,
- (8) hydrogen sulfide,
- (9) methyl chloroform,
- (10) methylene chloride,
- (11) ozone,
- (12) chlorine,
- (13) hydrazine,
- (14) phosphine,
- (15) particulate matter (PM10),
- (16) carbon monoxide, ~~and~~
- (17) ~~lead~~ lead, and
- (18) perchloroethylene.

(b) The owner or operator of a facility not included in Paragraph (a) of this Rule, other than a transportation facility,



that has actual emissions of 25 tons per year or more of nitrogen oxides or volatile organic compounds and that is located in Davidson, Durham, Forsyth, Gaston, Guilford, Mecklenburg, or Wake County, in Dutchville Township in Granville County, or in that part of Davie County bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek and back to the Yadkin River shall report by June 30th of each year the actual emissions of nitrogen oxides and volatile organic compounds during the previous calendar year.

(c) The report shall be in or on such form as may be established by the Director. The Director may require reporting for sources within a facility, for other facilities, or for other pollutants, parameters, or information, by permit condition or pursuant to 15A NCAC 2D .0202 (Registration of Air Pollution Sources). This annual reporting requirement shall begin with calendar year 1993 emissions. The accuracy of the report shall be certified by a responsible official of the facility as defined under 40 CFR 70.2.

*Authority G.S. 143-215.3(a)(1), (1a), (1b), (1d); 143-215.65; 143-215.107; 143B-282; 150B-21.6.*

## **SECTION .0300 - CONSTRUCTION AND OPERATION PERMITS**

### **.0307 PUBLIC PARTICIPATION PROCEDURES**

(a) This Rule does not apply to sources subject to the requirements of 15A NCAC 2D .0530 or .0531 or Appendix S or 40 CFR Part 51. For sources subject to the requirements of 15A NCAC 2D .0530 or .0531 or Appendix S of 40 CFR Part 51, the procedures in 15A NCAC 2D .0530 or .0531 or Appendix S of 40 CFR Part 51 shall be followed, respectively.

(b) The public notice shall be given by publication in a newspaper of general circulation in the area where the facility is located and shall be mailed to persons who are on the Division's mailing list for air quality permit notices and to EPA.

(c) The public notice shall identify:

- (1) the affected facility;
- (2) the name and address of the permittee;
- (3) the name and address of the person to whom to send comments and requests for public hearing;
- (4) the name, address, and telephone number of Divisional staff a person from whom interested persons may obtain additional information, including copies of the draft permit, the application, compliance plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to Division that are relevant to the permit decision;
- (5) the activity or activities involved in the permit action;
- (6) any emissions change involved in any permit modification;
- (7) a brief description of the public comment procedures;
- (8) the procedures to follow to request a public hearing

unless a public hearing has already been scheduled; and

- (9) the time and place of any hearing that has already been scheduled.

(d) The notice shall allow at least 30 days for public and EPA comments.

(e) If the Director determines that significant public interest exists or that the public interest will be served, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the public hearing.

(f) The Director shall make available for public inspection in at least one location in the region affected, the information submitted by the permit applicant and the Division's analysis of that application.

(g) The Director shall send EPA a copy of each draft permit subject to public and EPA comment when he sends EPA the notice of request for public comment for that permit and shall send EPA a copy of each such permit when it is issued.

(h) Persons who desire to be placed on the Division's mailing list for air quality permit notices shall send their request to the Director, Division of Air Quality, Environmental Management, P.O. Box 29580, 29535; Raleigh, North Carolina 27626-0580 27626-0535 and shall pay an annual fee of thirty dollars (\$30.00).

(i) Any persons requesting copies of material identified in Subparagraph (b)(4) of this Rule shall pay ten cents (\$0.10) a page for each page copied. Confidential material shall be handled in accordance with Rule .0107 of this Subchapter.

*Authority G.S. 143-215.3(a)(1), (3); 143-215.4(b); 143-215.108.*

## **SECTION .0500 - TITLE V PROCEDURES**

### **.0521 PUBLIC PARTICIPATION**

(a) The Director shall give public notice with an opportunity for comments and a hearing on all draft permits and permit revisions except permit revisions issued under Rules .0514, .0515, .0524 of this Section. The Director may give public notice with an opportunity for comments and a hearing on draft permit revisions issued under Rule .0514, .0515, .0524 of this Section.

(b) The notice shall be given by publication in a newspaper of general circulation in the area where the facility is located and shall be mailed to persons who are on the Division's mailing list for air quality permit notices.

(c) The notice shall identify:

- (1) the affected facility;
- (2) the name and address of the permittee;
- (3) the name and address of the person to whom to send comments and requests for public hearing;
- (4) the name, address, and telephone number of Divisional staff from whom interested persons may obtain additional information, including copies of the permit draft, the application, compliance plan, monitoring and compliance reports, all other relevant

supporting materials, and all other materials available to Division that are relevant to the permit decision;

- (5) the activity or activities involved in the permit action;
- (6) any emissions change involved in any permit modification;
- (7) a brief description of the comment procedures;
- (8) the procedures to follow to request a hearing unless a hearing has already been scheduled; and
- (9) the time and place of any hearing that has already been scheduled.

(d) The Director shall send a copy of the notice to affected States and EPA.

(e) The notice shall allow 30 days for public comments.

(f) If the Director finds that a public hearing is in the best interest of the public, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the hearing.

(g) If EPA requests a record of the comments and of the issues raised during the public participation process, the Director shall provide EPA this record.

(h) Persons who desire to be placed on the Division's mailing list for air quality permit notices shall send their request to the Director, Division of Air Quality, Environmental Management, P.O. Box 29580, 29535, Raleigh, North Carolina 27626-0580 27626-0535 and shall pay an annual fee of thirty dollars (\$30.00).

(i) Any persons requesting copies of material identified in Subparagraph (c)(4) of this Rule shall pay ten cents (\$0.10) a page for every page copied. Confidential material shall be handled in accordance with Rule .0107 of this Subchapter.

*Authority G.S. 143-215.3(a)(1),(3); 143-215.107(a)(10); 143-215.108; 143-215.111(4).*

## SECTION .0800 - EXCLUSIONARY RULES

### .0805 GRAIN ELEVATORS

(a) This Rule applies to grain elevators ~~that~~ that only:

- (1) receive grain directly from the farm farm; and
- (2) ~~that only~~ clean, dry, grind, or store grain before it is transported elsewhere.

(b) This Rule shall not apply to to:

- (1) facilities that process grain beyond cleaning, drying, or ~~grinding~~ grinding; or
- (2) facilities that use:
  - (A) tunnel belts, or
  - (B) headhouses and elevator legs vented to cyclonic control devices.

(c) Potential emissions for grain elevators shall be determined using actual tons of grain received or shipped, whichever is greater.

(d) Any grain elevator that receives or ships less than 21,000 588,000 tons of grain per year shall be exempted from the requirements of Section .0500 of this Subchapter.

(e) ~~The owner or operator of any grain elevator exempted by~~

~~this Rule from Section .0500 of this Subchapter shall submit, by February 15 of each year, a report containing the following information:~~

- ~~(1) the name and location of the grain elevator;~~
- ~~(2) the tons of grain received and shipped during the previous calendar year; and~~
- ~~(3) the signature of the appropriate official as identified in Rule .0304(j) of this Subchapter certifying as to the truth and accuracy of the report.~~

(e) The owner or operator of a grain elevator that receives or ships:

- (1) less than 392,000 tons of grain per year shall retain records of actual annual tons of grain received or shipped at the site. These records shall be made available to Division personnel upon request of the Division; or
- (2) at least 392,000 but less than 588,000 tons of grain per year shall retain records of actual annual tons of grain received or shipped at the site and shall submit to the regional supervisor of the appropriate Division regional office, by February 15 of each year, a report containing the following information:
  - (A) the name and location of the grain elevator;
  - (B) the tons of grain received and shipped during the previous calendar year; and
  - (C) the signature of the appropriate official as identified in Rule .0304(j) of this Subchapter certifying as to the truth and accuracy of the report.

(f) The owner or operator of the grain elevator exempted by this Rule from Section .0500 of this Subchapter shall provide documentation of actual annual tons of grain received or shipped to the Director upon request. The owner or operator of a grain elevator exempted by this Rule from Section .0500 of this Subchapter shall retain records to document actual annual tons of grain received or shipped for each of the previous three years.

(g) For facilities covered by this Rule, the owner or operator shall report to the Director any exceedance of a requirement of this Rule within one week of its occurrence.

*Authority G.S. 143-215.3(a); 143-215.107(a)(10); 143-215.108.*

### .0806 COTTON GINS

(a) This Rule applies to cotton gins that only gin cotton between September and January, inclusively. The Director may extend this time period beyond the end of January if the Commissioner of Agriculture certifies to the Director that the cotton ginning season has been delayed because of adverse weather.

(b) Potential emissions for cotton gins shall be determined using actual number of 500-pound bales of cotton cotton, not exceeding 500 pounds each, produced.

(c) Any cotton gin that gins less than 62,400 167,000 bales of cotton per year shall be exempted from the requirements of Section .0500 of this Subchapter.

(d) The owner or operator of any cotton gin exempted by this Rule from Section .0500 of this Subchapter shall submit, by March 1 of each year, a report containing the following information:

- (1) the name and location of the cotton gin;
- (2) the number of bales of cotton produced during that season; and
- (3) the signature of the appropriate official as identified in Rule .0304(j) of this Subchapter certifying as to the truth and accuracy of the report.

(e) The owner or operator of any cotton gin exempted by this Rule from Section .0500 of this Subchapter shall provide documentation of number of bales produced to the Director upon request. The owner or operator of a cotton gin exempted by this Rule from Section .0500 of this Subchapter shall retain records to document number of bales of cotton produced for each of the previous three years.

(f) For facilities covered by this Rule, the owner or operator shall report to the Director any exceedance of a requirement of this Rule within one week of its occurrence.

*Authority G.S. 143-215.3(a); 143-215.107(a)(10); 143-215.108.*

#### **.0807 EMERGENCY GENERATORS**

(a) This Rule applies to facilities whose only sources requiring a permit is one or more emergency generators or emergency use internal combustion ~~engines~~ engines and associated fuel storage tanks.

(b) For the purposes of this Rule:

- (1) "Emergency generator" means a stationary internal combustion engine used to generate electricity only during the loss of primary power at the facility that is beyond the control of the owner or operator of the facility or during maintenance when necessary to protect the environment. An emergency generator may be operated periodically to ensure that it will operate;
- (2) "Emergency use internal combustion engines" means stationary internal combustion engines used to drive pumps, aerators, and other equipment only during the loss of primary power at the facility that is beyond the control of the owner or operator of the facility or during maintenance when necessary to protect the environment. An emergency use internal combustion engine may be operated periodically to ensure that it will operate.

(c) For the purposes of this Rule, potential emissions for emergency generators and emergency use internal combustion engines shall be determined using actual fuel consumption.

(d) Any ~~facilities~~ facility whose emergency generators and emergency use internal combustion engines consume less than:

- (1) 322,000 gallons per year of diesel fuel for diesel-powered generators,
- (2) 62,500,000 cubic feet per year of natural gas for natural gas-powered generators,
- (3) 1,440,000 gallons per year of liquified petroleum gas

- for liquified petroleum gas-powered generators, and
- (4) 50,800 gallons per year of gasoline for gasoline-powered generators,

shall be exempted from the requirements of Section .0500 of this Subchapter.

(e) The owner or operator of any emergency generator or emergency use internal combustion engine exempted by this Rule from Section .0500 of this Subchapter shall submit, by February 15th of each year a report containing the following information:

- (1) the name and location of the facility;
- (2) the types and quantity of fuel consumed by emergency generators and emergency use internal combustion engines; and
- (3) the signature of the appropriate official as identified in Rule .0304(j) of this Subchapter certifying as to the truth and accuracy of the report.

(f) The owner or operator of any facility exempted by this Rule from Section .0500 of this Subchapter shall provide documentation of types and quantities of fuel consumed to the Director upon request. The owner or operator of a facility exempted by this Rule from Section .0500 of this Subchapter shall retain records to document types and quantities of fuels consumed for each of the previous three years.

(g) For facilities covered by this Rule, the owner or operator shall report to the Director any exceedance of a requirement of this Rule within one week of its occurrence.

*Authority G.S. 143-215.3(a); 143-215.107(a)(10); 143-215.108.*

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## **TITLE 21 - OCCUPATIONAL LICENSING BOARDS**

### **CHAPTER 12 - LICENSING BOARD FOR GENERAL CONTRACTORS**

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Licensing Board for General Contractors intends to amend rules cited as 21 NCAC 12 .0204, .0901, .0903 - .0904. Notice of Rule-making Proceedings was published in the Register on May 15, 1997.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 10:00 a.m. on October 22, 1997 at the Engineering Graduate Research Center, 1010 Main Campus Drive, Centennial Campus - North Carolina State University, Raleigh, N.C.

#### **Reason for Proposed Action:**

*21 NCAC 12 .0204 - to require that financial and financial reporting terminologies used in this Rule be construed in accordance with standards promulgated by the American Institute of Certified Public Accountants.*

*21 NCAC 12 .0901 - to add additional definitions which shall*

apply to the Board's administration of the Homeowners Recovery Fund.

21 NCAC 12 .0903 - to provide requirements for claims in which the contractor is a dissolved corporation.

21 NCAC 12 .0904 - to specify the filing deadline and service for claims in which the contractor is a dissolved corporation.

**Comment Procedures:** Persons wishing to present oral data, views or arguments on a proposed rule or rule change may file a notice with the Board at least 10 days prior to the public hearing at which the person wishes to speak. Comments should be limited to 10 minutes. The Board's address is PO Box 17187, Raleigh, NC 27619. Written submission of comments or argument will be accepted at any time up to and until the close of the public hearing.

**Fiscal Note:** These Rules do not affect the expenditures or revenues of state or local government funds. These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

## SECTION .0200 - LICENSING REQUIREMENTS

### .0204 ELIGIBILITY

(a) Limited License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) Be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least twelve thousand five hundred dollars (\$12,500.00);
- (3) Possess the competency and the ability, as revealed by the applicant's experience and education to engage in the practice of general contracting within a specified classification or classifications in order to successfully complete a single project of a value of less than or equal to two hundred fifty thousand dollars (\$250,000.00), such competency and ability being determined in the sole discretion of the Board;
- (4) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.

(b) Intermediate License. The applicant for such a license must:

- (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
- (2) Be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least fifty thousand dollars (\$50,000.00) as reflected in an audited financial statement prepared by a certified public accountant or a qualified independent accountant who is engaged in

the public practice of accountancy;

- (3) Possess the competency and the ability as revealed by the applicant's experience and education to engage in the practice of general contracting within a specified classification or classifications in order to successfully complete a single project of a value of less than or equal to five hundred thousand dollars (\$500,000.00), such competency and ability being determined in the sole discretion of the Board;
- (4) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.
- (c) Unlimited License. The applicant for such a license must:
  - (1) Be entitled to be admitted to the examination given by the Board in light of the requirements set out in G.S. 87-10 and Section .0400 of this Chapter;
  - (2) Be financially stable to the extent that the total current assets of the applicant or the firm or corporation he represents exceed the total current liabilities by at least one hundred thousand dollars (\$100,000.00) as reflected in an audited financial statement prepared by a certified public accountant or by a qualified independent accountant who is engaged in the public practice of accountancy;
  - (3) Possess the competency and the ability, as revealed by the applicant's experience and education to engage in the practice of general contracting within a specified classification or classifications in order to successfully complete a single project of a value in excess of five hundred thousand dollars (\$500,000), such competency and ability being determined in the sole discretion of the Board;
  - (4) Successfully complete 70 percent of each part of the examination given the applicant by the Board dealing with the specified contracting classification chosen by the applicant.
- (d) Should the financial statement submitted by the applicant fail to demonstrate the required level of working capital, the applicant shall obtain a surety bond from a surety authorized to transact surety business in North Carolina pursuant to G.S. 58 Article 7, 16, 21, or 22. The surety shall provide proof that it maintains a rating from A.M. Best, or its successor rating organization, of either Superior (A++ or A+) or Excellent (A or A-). The bond shall be continuous in form and shall be maintained in effect for as long as the applicant maintains a license to practice general contracting in North Carolina or until the applicant demonstrates the required level of working capital. The application form and subsequent annual license renewal forms shall require proof of a surety bond meeting the requirements of this Rule. The applicant shall maintain the bond in the amount of fifty thousand dollars (\$50,000.00) for a limited license, two hundred fifty thousand dollars (\$250,000.00) for an intermediate license, and five hundred thousand dollars (\$500,000.00) for an unlimited license. The bond shall be for the benefit of any person who is damaged by

an act or omission of the applicant constituting breach of a construction contract or breach of a contract for the furnishing of labor, materials, or professional services to construction undertaken by the applicant, or by an unlawful act or omission of the applicant in the performance of a construction contract. The bond required by this Rule shall be in addition to and not in lieu of any other bond required of the applicant by law, regulation, or any party to a contract with the applicant. Should the surety cancel the bond, the surety and the applicant both shall notify the Board immediately in writing. If the applicant fails to provide written proof of financial responsibility in compliance with this Rule within 30 days of the bond's cancellation, then the applicant's license shall be suspended until written proof of compliance is provided. After a suspension of two years, the applicant shall fulfill all requirements of a new applicant for licensure. The practice of general contracting by an applicant whose license has been suspended pursuant to this Rule will subject the applicant to additional disciplinary action by the Board.

(e) Reciprocity. If an applicant is licensed as a general contractor in another state, the Board, in its discretion, need not require the applicant to successfully complete the written examination as provided by G.S.87-15.1. However, the applicant must comply with all other requirements of these rules to be eligible to be licensed in North Carolina as a general contractor.

(f) Accounting and reporting standards. Working capital, balance sheet with current and fixed assets, current and long term liabilities, and other financial terminologies used herein shall be construed in accordance with those standards referred to as "generally accepted accounting principles" as promulgated by the American Institute of Certified Public Accountants through pronouncements of the Financial Accounting Standards Board, the Governmental Accounting Standards Board, and predecessor organizations. As audited financial statement, an unqualified opinion, and other financial reporting terminologies used herein shall be construed in accordance with those standards referred to as "generally accepted auditing standards" as promulgated by the American Institute of Certified Public Accountants through pronouncements of the Auditing Standards Board.

Authority G.S. 87-1; 87-10.

## SECTION .0900 - HOMEOWNERS RECOVERY FUND

### .0901 DEFINITIONS

The following definitions shall apply to the Board's administration of the Homeowners Recovery Fund established pursuant to Article 1A, Chapter 87 of the General Statutes:

- (1) "Constructing or altering" includes contracting for the construction or alteration of a single-family residential dwelling unit.
- (1)(2) "Dishonest conduct" shall not include a mere breach of a contract.
- (2)(3) "Incompetent conduct" is conduct which demonstrates a lack of ability or fitness to discharge

a duty associated with undertaking to construct or alter a single family residential dwelling or the supervision of such construction or alteration.

(3)(4) "Owner or former owner" includes the owner or former owner of real property who contracted with a general contractor for the construction of a single-family residential dwelling unit. "Owner or former owner" "Homeowner" shall not include a person who is a spouse child, parent, grandparent, sibling, partner, associate, or employee of a general contractor whose conduct caused a reimbursable loss. In addition, the term homeowner shall not include general contractors or any financial or lending institution.

(5) "Substantial completion" means that degree of completion of a project, improvement or specified area or portion thereof whereupon the owner can use the same for its intended use.

(6) "Separately owned residence" means a building whose construction is governed by Volume VII of the North Carolina State Building Code.

Authority G.S. 87-15.6.

### .0903 APPLICATION FOR PAYMENT

(a) Applicants desiring to obtain payment from the fund shall file a verified application with the Board on a prescribed form. The form shall require information concerning the applicant and the claim including, but not limited to, the applicant's name and address, the amount of the claim, a description of the acts of the general contractor which constitute the grounds for the claim and a statement that all court proceedings are concluded or the general contractor has filed for bankruptcy. If the applicant has exhausted all civil remedies pursuant to G.S. 87-15.8(1)(3), the application shall include certified copies from the civil action of the complaint, judgment and return of execution marked as unsatisfied. If the general contractor was a corporation which was dissolved no later than one year after the date of discovery by the applicant of the facts constituting the dishonest or incompetent conduct, and the applicant did not commence a civil action against the general contractor, then the applicant shall include certified copies of documents evidencing the dissolution. If the applicant has been precluded from filing suit, obtaining a judgment or otherwise proceeding against the general contractor due to the automatic stay provisions of Section 362 of the U.S. Bankruptcy Code bankruptcy of the general contractor, then the applicant ~~should~~ shall submit a certified copy of the bankruptcy petition and any proof of claim claim, or other and document documents bearing on the disposition of funds in the bankruptcy proceeding. ~~Applications based upon stays in bankruptcy will not be considered by the Recovery Fund Review Committee until the bankruptcy proceeding is terminated.~~ from the bankruptcy court or trustee certifying that the applicant has not and will not receive any payment from the bankruptcy proceeding.

(b) Requests for the application form shall be directed to the

Board at the address shown in Rule .0101 of this Chapter.

Authority G.S. 87-15.6; 87-15.7; 87-15.8.

#### .0904 FILING DEADLINE AND SERVICE

(a) Applicants seeking recovery from the fund shall be forever barred unless application is made within one year after termination of all proceedings, including appeals, in connection with an unsatisfied judgment obtained against a general contractor. Claims based upon the ~~automatic stay provisions of Section 362 of the U.S. Bankruptcy Code~~ bankruptcy or dissolution of the general contractor shall be forever barred unless application is made within three years from the date of discovery by the applicant of the facts constituting the dishonest or incompetent conduct or within six years of substantial completion of the construction or alteration of the residence in question, whichever comes first.

(b) Applications shall be filed at the address shown in Rule .0101 of this Chapter. The Board shall serve a copy of the application upon the general contractor who allegedly caused the loss. Service shall be accomplished by certified mail, return receipt requested, or other methods authorized by G.S. 150B-38(c).

Authority G.S. 87-15.6; 87-15.7; 87-15.8.

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### CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to amend rule cited as 21 NCAC 32F .0103. Notice of Rule-making Proceedings was published in the Register on December 16, 1996.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 1:00 p.m. on September 17, 1997 at the N.C. Medical Board, 1203 Front Street, Raleigh, NC 27609.

**Reason for Proposed Action:** Compliance with NC Session Laws 1996 which states fee reduction from \$200 - \$100 will occur January 1997. Resident Training license fee will be reduced to \$15.00.

**Comment Procedures:** All licensees may send written comments to the rule-making coordinator through September 17, 1997. Oral comments may be presented at the public hearing.

**Fiscal Note:** This Rule does not affect the expenditures or revenues of state or local government funds. This Rule does not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period.

### SUBCHAPTER 32F - ANNUAL REGISTRATION

#### SECTION .0100 - REGISTRATION

##### .0103 FEE

Each physician shall pay a ~~biennial~~ an annual registration fee of ~~two one~~ hundred dollars (~~\$200.00~~) \$100.00 to the Board every ~~odd numbered~~ year in accordance with G.S. 90-15.1; except, each physician holding a resident's training license shall pay a ~~biennial~~ an annual registration fee of ~~twenty five~~ fifteen dollars (~~\$25.00~~) (\$15.00) and every physician who holds a special volunteer license shall pay a biennial an annual registration fee of ten dollars (\$10.00).

Authority G.S. 90-15.1; 90-18(13); 90-18.1.

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### CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

**N**otice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to adopt rule cited as 21 NCAC 32H .0508, amend rules cited as 32H .0102, .0201 - .0203, .0301 - .0303, .0401 - .0405, .0407 - .0409, .0501 - .0503, .0505 - .0507, .0601 - .0602, .0801, .0901, .1004, and repeal 32H .0406, .0504. Notice of Rule-making Proceedings was published in the Register on April 15, 1997.

**Proposed Effective Date:** August 1, 1998

**A Public Hearing** will be conducted at 1:00 p.m. on November 5, 1997 at the Division of Facility Services Office, 701 Barbour Drive, Room 201, Raleigh, NC.

**Reason for Proposed Action:** These changes will better reflect the current trends in the abilities and certification levels of out-of-hospital EMS providers nationwide as well as the recommendations of EMS providers in North Carolina.

**Comment Procedures:** Persons who wish to make written or verbal comment regarding these proposed amendments should contact:

Mr. Ed Browning, Education Programs Specialist, NC Office of Emergency Medical Services, PO Box 29530, Raleigh, NC 27626-0530, Tele: (919) 733-2285, FAX: (919) 733-7021. Verbal and written comments will be received through the date of the public hearing. Persons are encouraged to submit written comments by October 1, 1997 to allow adequate time for review and consideration by the Board.

**Fiscal Note:** These Rules do not have a substantial economic impact of at least five million dollars (\$5,000,000) in a 12-month period. 21 NCAC 32H .0406 and .0504 - affect the



*expenditures or revenues of local government funds. These Rules do not affect the expenditures or revenues of state government funds. 21 NCAC 32H .0102, .0201 - .0203, .0301 - .0303, .0401 - .0405, .0407 - .0409, .0501 - .0503, .0505 - .0508, .0601 - .0602, .0801, .0901, .1004 - do not affect the expenditures or revenues of state or local government funds.*

**SUBCHAPTER 32H - EMERGENCY  
MEDICAL SERVICES ADVANCED  
LIFE SUPPORT**

**SECTION .0100 - GENERAL  
INFORMATION**

**.0102 DEFINITIONS**

The following definitions apply in this Subchapter:

- (1) "Audit and review panel" means a committee composed of representatives of the medical, nursing, administrative, county government, and prehospital care service elements of an advanced life support (ALS) program that has the responsibility for the ongoing monitoring and evaluation of the program. The chairman of the panel shall be a physician and a majority of the voting members shall be physicians.
- (2) ~~"Emergency medical technician-advanced intermediate (EMT-AI)" means a person specially educated in a program approved by the Office of Emergency Medical Services who has been certified or recertified by the North Carolina Medical Board as qualified to render the services enumerated in Rule .0406 of this Subchapter.~~ "Medical Crew Member" means a physician, registered nurse, EMT-paramedic, EMT-intermediate, EMT-defibrillation technician, or EMT who holds a current North Carolina license or certification and who has completed additional training in altitude physiology, EMS communications, in-flight emergencies, and aircraft and flight safety conducted under the direct guidance of the medical director.
- (3) "Emergency medical technician-defibrillation (EMT-D)" means a person specially educated in a program approved by the Office of Emergency Medical Services who has been certified or recertified by the North Carolina Medical Board as qualified to render the services enumerated in Rule .0407 of this Subchapter.
- (4) "Emergency medical technician-intermediate (EMT-I)" means a person specially educated in a program approved by the Office of Emergency Medical Services who has been certified or recertified by the North Carolina Medical Board as qualified to render the services enumerated in Rule .0403 of this Subchapter.
- (5) "Emergency medical technician-paramedic (EMT-P)" means a person specially educated in a program approved by the Office of Emergency Medical Services who has been certified or recertified by the

North Carolina Medical Board as qualified to render the services enumerated in Rule .0402 of this Subchapter.

- (6) "Advanced Life Support Professional (ALS Professional)" means a certified emergency medical dispatcher, emergency medical technician-defibrillation, emergency medical technician-intermediate, ~~emergency medical technician-advanced intermediate~~, or emergency medical technician-paramedic whether working on a paid or volunteer basis.
- (7) "Medical control" means the management and accountability for the medical care aspects of an ALS program. It entails physician direction and oversight of the initial education and continuing education of the ALS professionals; development and monitoring of both operational and treatment protocols; evaluation of the medical care rendered by ALS ~~personnel~~, professionals; participation in system evaluation; and directing, by radio or telephone, the medical care rendered by the ALS professionals.
- (8) "Medical director" means the physician responsible for the medical aspects of the management of an ALS program.
- (9) "Mobile intensive care nurse (MICN)" means a registered nurse who has been approved or reapproved by the North Carolina Medical Board to issue instructions to ALS professionals in accordance with protocols approved by the sponsor hospital and under the direction of the medical director.
- (10) "Advanced life support program (ALS program)" means a program of prehospital emergency medical care whereby definitive medical care is delivered to a victim of sudden injury or illness by appropriately educated and certified ALS professionals operating under the direction of a sponsor hospital. All ALS programs shall conform to the criteria established in the rules contained in this Subchapter and shall be approved by the Office of Emergency Medical Services.
- (11) "Mobile intensive care unit" means any emergency vehicle staffed by ALS professionals and equipped in accordance with standards established by the North Carolina Medical Care Commission as found in 10 NCAC 3M .0202, .0203, .0204, ~~.0205~~, and .0207 to provide remote intensive care to sick and injured persons at the scene of a medical emergency and during transport to a health care facility.
- (12) "Oral interview panel" means a committee composed of physicians, ALS professionals certified at or above the level of application and may include other medical personnel such as registered nurses and mobile intensive care nurses involved in the ALS program. The responsibility of the oral interview panel is to interview each applicant for certification, either collectively or individually, and evaluate his the suitability to perform successfully at the

certification level sought. The panel shall be approved by the medical director and consist of a minimum of three members including one physician and one ALS professional.

- (13) "Office of Emergency Medical Services" means an official agency of the State of North Carolina, Department of Human Resources, that serves in an administrative capacity to the North Carolina Medical Board.
- (14) "Physician" means an individual licensed by the North Carolina Medical Board to practice medicine in the State of North Carolina.
- (15) "Sponsor hospital" means a hospital and its medical staff which participates in an ALS program and has responsibility for providing or ensuring the provision of initial education, continuing education, and medical control to the ALS professionals. The sponsor hospital shall meet criteria adopted by the North Carolina Medical Board and be approved by the Office of Emergency Medical Services.
- (16) "Study project" means a proposal involving exceptions to the provisions of this Subchapter for the purpose of evaluating the efficiency and effectiveness of alternate means of providing ALS services to the citizens of North Carolina.
- (17) "Blind insertion airway device" means an airway adjunct designed to be used as a pharyngeal pharyngotracheal or esophageal device which is inserted without the use of direct visualization. For the purposes of these rules, this definition does not include esophageal obturator airways, esophageal gastric tube airways, or endotracheal tubes.
- (18) "Coding" means the selection and assignment of an alphanumeric classification to a call for medical assistance by an EMD.
- (19) "Emergency Medical Dispatcher (EMD)" means a trained public safety telecommunicator with additional training and specific emergency medical knowledge essential for the efficient management of emergency medical service communications who has successfully completed an education and training program meeting the criteria established by the Office of Emergency Medical Services and who functions as an agent or constituent of an Emergency Medical Dispatch Program approved by the Office of Emergency Medical Services.
- (20) "Emergency Medical Dispatching" means the reception and management of requests for emergency medical assistance.
- (21) "Emergency Medical Dispatch Program" means the approved program with procedures established for the management and delivery of emergency medical assistance by a public or private agency that sends emergency medical assistance to requesting persons and provides pre-arrival instructions for a victim of sudden injury or illness.
- (22) "Emergency Medical Dispatch Priority Reference

System (EMDPRS)" means a medically approved written or computer generated reference system used by an emergency medical dispatching agency to provide medical direction, and to dispatch aid to medical emergencies.

- (23) "EMD selection" means the process which establishes criteria to identify a candidate for education and training as an Emergency Medical Dispatcher (EMD).
- (24) "Pre-arrival instructions" means telephone rendered, medically approved written instructions read by emergency medical dispatchers to callers, which help provide aid to the victim and control the situation prior to patient access by pre-hospital care providers.
- (25) "Public Safety Telecommunicator" means an individual trained to communicate by electronic means with persons seeking emergency assistance and with public or private agencies and individuals providing such assistance.
- (26) "Approved Teaching Institution" means an agency with a current contract with the Office of Emergency Medical Services to provide emergency medical services training educational programs. Approved teaching institutions must meet the criteria in accordance with 10 NCAC 3D .1201.
- (27) "~~Medical Direction Assistant (MDA)~~" "Physician Assistant (PA)" means a physician assistant ~~or nurse practitioner~~ who has been ~~approved or reapproved~~ licensed by the North Carolina Medical Board and approved by the Office of Emergency Medical Services to issue instructions to ALS professionals in accordance with protocols approved by the sponsor hospital and under the direction of the medical director.
- (28) "Nurse Practitioner (NP)" means a nurse practitioner who has been licensed by the North Carolina Board of Nursing and the North Carolina Medical Board and approved by the Office of Emergency Medical Services to issue instructions to ALS professionals in accordance with protocols approved by the sponsor hospital and under the direction of the medical director.

Authority G.S. 143-514.

## SECTION .0200 - PROGRAM STANDARDS AND APPROVAL

### .0201 ADVANCED LIFE SUPPORT PROGRAM CRITERIA

ALS programs shall cover a defined service area and shall have the following:

- (1) a plan, as specified in Rule .0302 of this Subchapter, for the coordination of the sponsor hospitals participating in the program;
- (2) a designated medical director who shall be responsible either directly or by clearly established



delegation to the other licensed physicians at the sponsor hospital(s) for the following:

- (a) the establishment, approval and periodic updating of treatment protocols or EMDPRS for emergency medical dispatch programs;
  - (b) medical supervision of the selection, initial education, continuing education and performance of the ALS professionals, ~~MICN and MDA~~ MICN, physician assistant and nurse practitioner personnel;
  - (c) the medical review of the care provided to patients;
  - (d) keeping the care provided current with advanced biomedical science and technology; and
  - (e) participation in the overall management of the ALS program in liaison with nursing, technical, and administrative staff of the program. The medical director shall have the authority to suspend temporarily, pending due process review, an ALS professional, ~~MICN, or MDA~~ physician assistant or nurse practitioner from further participation in the ALS program when it is determined the activities or medical care rendered by such personnel may be detrimental to the care of the patient;
- (3) an organized and defined system of communications that provides for:
    - (a) public access through a central emergency communications center;
    - (b) dispatch and coordination of all resources (manpower, vehicles and equipment) essential to the effective and efficient management of requests for emergency medical assistance;
    - (c) communications linkages for interacting with other public safety agencies to obtain additional resources required to support emergency medical services activities; and
    - (d) two-way voice communications as specified in Rule .0303 (a) (2) (H) of this Subchapter between the ALS professionals and the personnel at the sponsor hospital responsible for directing the medical treatment rendered by the ALS professionals;
  - (4) adequate certified manpower to ensure that the program will be continuously available on a 24 hour-a-day basis; and
  - (5) an audit and review panel that meets at a minimum on a quarterly basis and whose responsibilities include at least the following:
    - (a) reviewing ALS cases to determine the appropriateness of the medical care rendered by all personnel involved in the cases;
    - (b) making recommendations to the medical director for the continuing education program for ALS personnel; and

- (c) reviewing the policies, procedures and protocols of the ALS program and making recommendations for improvement; and

- (d) making recommendations for consideration by the sponsor hospital administratively responsible for the program regarding the appointment of the medical director.

Authority G.S. 143-514.

#### .0202 PROGRAM APPROVAL

(a) A complete proposal to establish or expand an ALS program must be submitted to the Office of Emergency Medical Services at least 60 days prior to the planned field implementation or expansion of the ~~program~~ program, and be re-approved every four years following initial approval.

(b) The proposal must demonstrate that the program meets the standards found in Rule .0201 of this Section and must follow the format specified by the Office of Emergency Medical Services.

Authority G.S. 143-514.

#### .0203 APPROVAL REQUIREMENTS: EMERGENCY MEDICAL DISPATCHER PROGRAM

(a) All emergency medical dispatching agencies applying the principles of EMD or offering EMD services, procedures, or programs to the public shall conform to the criteria established in the rules contained in this Subchapter and shall submit a proposal for program approval to the Office of Emergency Medical Services at least 60 days prior to program implementation. The proposal must document that the EMD program has:

- (1) a defined service area;
- (2) a designated medical director responsible for medical supervision of the program in accordance with Rule .0201(2)(a)-(e);
- (3) adopted, maintains, and updates on a regular basis, a written or computer-based emergency medical dispatch priority reference system (EMDPRS) approved by the EMD ~~program~~ medical director including at least the minimum incident protocols set forth in the "Guidelines for the Development and Operation of Emergency Medical Dispatch Programs" ~~dated March 1995; Programs~~;
- (4) adequate personnel certified in accordance with the requirements of this Subchapter to ensure that the program will be continuously available on a 24 hour-a-day basis;
- (5) an organized and defined system of communications that provides for public access through a central emergency communications center using a single seven digit telephone number for the service area or an emergency 9-1-1 telephone system;
- (6) the ability to dispatch and coordinate all resources,

such as manpower, vehicles and equipment that are essential to the effective and efficient management of requests for emergency medical assistance;

- (7) an audit and review panel which meets at a minimum on a quarterly basis;
- (8) a formal risk management program including written procedures that provide:
  - (A) The chain of command for establishment of policies, procedures, and resolution of conflicts relating to the EMD Program;
  - (B) Administrative procedures and written protocols for resource allocation and alternative response assignments of emergency response units;
  - (C) EMD responsibilities in special situations, such as disasters, multi-causality incidents, or situations requiring referral to specialty hotlines;
  - (D) Complete written and recorded documentation of EMD operations that permit timely medical audit and review;
  - (E) Procedures for selection and processing of cases for EMD audit and review.
- (9) adopted and maintains a dispatch coding system consistent with the incident protocol types in the EMDPRS which categorizes the problem determination through the EMDs evaluation of the problem or situation;
- (10) provides, maintains, and upgrades on a regular basis, all necessary protocols, training educational equipment, and quality assurance/case review equipment and supplies required for operation of the EMD program.

(b) EMD programs shall make application to the Office of Emergency Medical Services and be re-approved every four years following initial EMD program approval.

Authority G.S. 143-514.

## SECTION .0300 - HOSPITAL UTILIZATION

### .0301 HOSPITAL INVOLVEMENT

Hospital and hospital medical staff participation in the establishment, operation and ongoing evaluation of ALS programs is essential. The role of each participating hospital within the service area of an ALS program shall be defined, and the operational procedures outlined and agreed to by all participants so as to help ensure proper coordination. Sponsor Hospitals may provide services utilizing ALS ~~personnel~~ professionals for the delivery of emergency medical care to the sick and injured at the scene of an emergency and during education of the ALS professionals. While functioning pursuant to these Rules, the ALS professionals shall be under the control and supervision of the physician, approved ~~MICN or MDA MICN~~ physician assistant or nurse practitioner of the sponsor hospital from which they are receiving instructions.

Authority G.S. 143-514.

### .0302 PLAN FOR PARTICIPATING HOSPITALS

(a) Each ALS program shall have a written plan which outlines the roles and responsibilities of each of the sponsor hospitals that will function in the program. The plan shall allow for the participation of all hospitals within the service area of the ALS program that meet the sponsor hospital criteria even though one or more hospitals may choose not to participate at the initiation of the program. One hospital shall be designated in the plan as being administratively responsible for the ALS program and as such have overall responsibility for administration and coordination of the program and ensuring compliance with the requirements of this Subchapter. Changes in this designation shall be approved by the Office of Emergency Medical Services. If participating hospitals cannot reach an agreement regarding the designation of the administratively responsible sponsor hospital, the Office of Emergency Medical Services shall designate one of the hospitals as administratively responsible for the program. This designation shall be for one year or until such time as the participating hospitals can reach an agreement on the designation, whichever is shorter. The Office of Emergency Medical Services shall continue an annual appointment of the administratively responsible sponsor hospital until the participating hospitals can reach an agreement on this designation.

(b) The plan shall be approved by the chief of staff and chief executive officer of each participating hospital and shall include at a minimum:

- (1) a description of the role each hospital is to have in the ALS program;
- (2) a description of the operational procedures to be followed by the ALS professionals, ~~MICN and MDA MICN~~ physician assistant or nurse practitioner personnel to obtain medical direction;
- (3) the treatment protocols to be utilized in the program and a description of the procedure to be followed to modify them;
- (4) a description of how the audit and review function will be established and carried out;
- (5) a description of the methodology for providing continuing education for the ALS professionals, ~~MICN and MDA MICN~~ physician assistant or nurse practitioner personnel; and
- (6) a description of the mechanism for providing physician backup to the ~~MICN and MDA MICN~~ physician assistant or nurse practitioner personnel in programs where they are utilized.

(c) The plan shall be approved for a period not to exceed four years. At the end of the approval period, the ALS program must submit an updated plan meeting the criteria specified in Paragraphs (a) and (b) of this Rule.

Authority G.S. 143-514.

### .0303 SPONSOR HOSPITAL

(a) To be approved by the Office of Emergency Medical Services as a sponsor hospital, a hospital shall:

- (1) demonstrate that it will function as part of an ALS program in accordance with a plan meeting the requirements of Rule .0302 of this Section;
- (2) meet all of the following criteria:
  - (A) have physician, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner coverage available 24 hours per day in the emergency department or critical care unit for communication with the ALS professionals;
  - (B) ensure 24 hour availability of a registered nurse who is primarily responsible to meet ALS patients upon arrival at the emergency department;
  - (C) have a physician available to provide backup to the ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner issuing instructions to the ALS professionals;
  - (D) appoint a registered nurse to act as a liaison between the ALS professionals and the hospital. The nurse liaison shall meet the requirements set forth in the "Guidelines for the Selection and Performance of the Emergency Medical Services Nurse Liaison" dated October 1990; Liaison;
  - (E) appoint a physician to serve as a medical director or liaison to the medical director of the ALS program; program after consideration of the recommendation made by the audit and review panel;
  - (F) have written support letters for the program from both the chief executive officer and chief of staff of the hospital;
  - (G) establish or participate in an audit and review panel that meets at a minimum quarterly;
  - (H) have access to and operate a communications system that will provide, at a minimum, two-way voice communications to ALS professionals anywhere in the service area of the ALS program. The ~~program~~ medical director shall verify ~~that, in his opinion, that~~ the communications system is satisfactory for on-line medical control. The communications system shall provide for communication from the onset of patient treatment through the delivery of the patient at the medical treatment facility. The communications system shall be operational 24 hours per day and shall allow for initiation of communication by either the ALS professionals or by the sponsor hospital that is directing the patient care procedures and treatment. Approved first responder organizations functioning at the EMT-D level of care as part of approved ALS programs are exempt from the requirements of this ~~Paragraph; Paragraph~~ unless utilizing

medications authorized under locally approved protocols requiring voice communication;

- (I) provide orientation regarding the ALS program to medical and nursing personnel at the hospital who participate in the program;
- (J) have treatment protocols adopted by the medical staff covering the performance of ALS professionals which are consistent with those being used throughout the ALS program;
- (K) provide or ensure provision of a continuing education program approved by the Office of Emergency Medical Services for ALS professionals, ~~MICN and MDA~~ MICN, physician assistant or nurse practitioner personnel; and
- (L) provide or ensure provision of supervised clinical experience for those participating in the educational program.

(b) In addition, the sponsor hospital designated as administratively responsible for the ALS program shall have a physician in the emergency department 24 hours a day who is available to give orders and medical direction to the ALS professionals. For ALS programs that do not have a participating hospital within their area with a physician in the emergency department 24 hours a day, this requirement may be met by the sponsor hospital designated as administratively responsible for the program defining a mechanism to provide physician backup to the ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner and medical control to the ALS professionals.

Authority G.S. 143-514.

## SECTION .0400 - EDUCATION AND PERFORMANCE OF ADVANCED LIFE SUPPORT PERSONNEL

### .0401 EDUCATIONAL PROGRAMS

(a) An educational program intended to qualify personnel as ALS professionals, ~~MICNs or MDAs~~ MICNs, physician assistants or nurse practitioners authorized to issue orders to ALS personnel shall be approved by the Office of Emergency Medical Services. Proposals for educational programs shall be submitted for approval at least 20 days prior to the date on which the program is scheduled to start.

(b) ALS professional students may perform the services and functions permitted by the rules contained in this Subchapter for their certification level during:

- (1) the clinical portion of an approved educational program while caring for patients in the sponsor hospital or other facility approved by the medical director and the Office of Emergency Medical Services, provided that the related didactic work has been completed and that they are under the direct supervision of a physician, ~~MDA~~ physician assistant, nurse practitioner, or registered nurse;

- (2) a field internship provided that:
- (A) the related didactic work of an approved educational program has been completed;
  - (B) they are directly supervised and accompanied by an ALS professional certified at a like or higher certification level or a physician; and
  - (C) the internship is conducted within an ALS program approved at the same or higher certification level of the educational program.

Authority G.S. 143-514.

#### .0402 EMERGENCY MEDICAL TECHNICIAN-PARAMEDIC PERFORMANCE

EMT-Ps educated in approved programs, certified by the North Carolina Medical Board to perform medical acts, and functioning in an approved ALS program may do any of the following in accordance with the protocols established by their sponsor hospital:

- (1) While at the scene of a medical emergency where the capability of continuous two-way voice communication is maintained with a physician, approved ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner located in the sponsor hospital, and upon order of such physician, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner:
    - (a) establish an intravenous line in a peripheral vein; vein and administer any of the following intravenous solutions:
      - (i) ~~Dextrose 5% in Water~~;
      - (ii) ~~Lactated Ringers Solution~~;
      - (iii) ~~Normal Saline~~;
      - (iv) ~~Dextrose 5% Lactated Ringers~~;
      - (v) ~~Dextrose 5% 1/2 Normal Saline~~;
      - (vi) ~~Dextrose 5% 1/4 Normal Saline~~;
      - (vii) ~~Dextrose 10% in Water~~; and
      - (viii) ~~Dextrose 5% Normal Saline~~;
    - (b) obtain blood for laboratory analysis;
    - (c) administer in a fashion via a route approved by the ~~local~~ program medical director any of the following medications; intravenous fluid or medication specified for use by EMT-Ps found in the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services;
- ~~ADVANCED CARDIAC LIFE-SUPPORT~~  
**MEDICATIONS:**
- (i) ~~Atropine~~;
  - (ii) ~~Bretylium~~;
  - (iii) ~~Calcium Chloride/Gluconate~~;
  - (iv) ~~Dobutamine~~;
  - (v) ~~Epinephrine 1:1000~~;
  - (vi) ~~Epinephrine 1:10,000~~;
  - (vii) ~~Isoproterenol~~;
  - (viii) ~~Lidocaine~~;
  - (ix) ~~Sodium Chloride Injection~~;
  - (x) ~~Procainamide~~;

- (xi) ~~Sodium Bicarbonate~~; and
  - (xii) ~~Dopamine~~;
- ~~ANESTHETICS:~~
- (i) ~~Lidocaine 1% or 2%~~;
  - (ii) ~~Procaine 1% or 2%~~;
- ~~CARDIORESPIRATORY AGENTS:~~
- (i) ~~Adenosine~~;
  - (ii) ~~Albuterol (by inhalation)~~;
  - (iii) ~~Aminophylline~~;
  - (iv) ~~Furosemide~~;
  - (v) ~~Isoetharine (by inhalation)~~;
  - (vi) ~~Metaproterenol (by inhalation)~~;
  - (vii) ~~Nifedipine~~;
  - (viii) ~~Nitroglycerin Sublingual~~;
  - (ix) ~~Nitroglycerin Paste~~;
  - (x) ~~Propranolol~~;
  - (xi) ~~Racemic Epinephrine (by inhalation)~~;
  - (xii) ~~Terbutaline (injectable or by inhalation)~~; and
  - (xiii) ~~Verapamil~~;
- ~~OTHER MEDICATIONS:~~
- (i) ~~Diazepam Injectable~~;
  - (ii) ~~Diphenhydramine Injectable~~;
  - (iii) ~~Dextrose 50%~~;
  - (iv) ~~Glucagon (Intramuscular or Subcutaneous)~~;
  - (v) ~~Heparin (for use with heparin locks)~~;
  - (vi) ~~IV Steroid Preparations~~;
  - (vii) ~~Mannitol~~;
  - (viii) ~~Naloxone~~;
  - (ix) ~~Phenytoin Injectable~~;
  - (x) ~~Promethazine~~;
  - (xi) ~~Thiamine (intramuscular or intravenous)~~;
  - (xii) ~~Aspirin~~;
  - (xiii) ~~Lorazepam Injectable~~;
  - (xiv) ~~Amyl Nitrite (Pearls)~~;
  - (xv) ~~Flumazenil~~;
  - (xvi) ~~Dextrose 25%~~;
  - (xvii) ~~Ketorolac~~;
  - (xviii) ~~Midazolam~~; and
  - (xix) ~~Magnesium Sulfate Injectable~~;
- ~~ANALGESICS:~~
- (i) ~~Meperidine~~;
  - (ii) ~~Morphine Sulfate~~;
  - (iii) ~~Nalbuphine Hydrochloride~~; and
  - (iv) ~~Nitrous Oxide (via respiratory route)~~;
- (d) perform pulmonary ventilation by means of a blind insertion airway device or endotracheal tube;
  - (e) perform defibrillation or cardioversion;
  - (f) ~~use gas-powered or hand-powered nebulizers~~;
  - (g)(f) decompress a tension pneumothorax by use of a catheter-flutter-valve device;
  - (h)(g) use positive end expiratory pressure respirators;
  - (i)(h) perform cricothyrotomy for relief of upper

- airway obstruction;
  - (j)(i) perform gastric suction by intubation;
  - (k)(j) perform urinary catheterization;
  - (l)(k) perform external cardiac pacing;
  - (m)(l) establish an intraosseous infusion line in patients under ~~60 months~~ 6 years of age and use it to administer any intravenous fluid or medication specified for use by EMT-Ps found in the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services and in this Rule approved by the local program medical director for intraosseous infusion;
  - (n)(m) ~~administer fluids and medications using previously established indwelling semi-permanent central venous catheters, administer any intravenous fluid or medication specified for use by EMT-Ps found in the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services; and~~
  - (o)(n) place and maintain heparin or saline locks.
- (2) When confronted with serious or life threatening clinical situations as defined in the patient care protocols established by the sponsor hospital of the ALS program and approved by the Office of Emergency Medical Services, perform as necessary under standing orders any of the following prior to contacting the sponsor hospital:
- (a) cardiopulmonary resuscitation;
  - (b) defibrillation, cardioversion, or external cardiac pacing;
  - (c) pulmonary ventilation by means of a blind insertion airway device or endotracheal tube;
  - (d) establish an intravenous line in a peripheral vein. ~~If the intravenous line is not successfully established after two attempts, the EMT-P shall contact the sponsor hospital prior to making another attempt; vein;~~
  - (e) establish an intraosseous infusion line in patients under ~~60 months~~ 6 years of age and use it to administer any intravenous fluid or medication specified for use by EMT-Ps found in the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services and in this Rule approved by the local medical program medical director for intraosseous infusion;
  - (f) administer the following medications; any intravenous fluid or medication specified for use by EMT-Ps on the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services and approved by the medical director for use under standing orders:
    - (i) Albuterol (by inhalation);
    - (ii) Bretylium;

- (iii) Epinephrine 1:1000;
  - (iv) Epinephrine 1:10,000;
  - (v) Furosemide;
  - (vi) Metaproterenol (by inhalation);
  - (vii) Nitroglycerin;
  - (viii) Terbutaline (injectable or by inhalation);
  - (ix) Atropine;
  - (x) Dextrose 50%;
  - (xi) Lidocaine;
  - (xii) Naloxone;
  - (xiii) Sodium Bicarbonate;
  - (xiv) Diazepam Injectable;
  - (xv) Diphenhydramine Injectable;
  - (xvi) Aspirin;
  - (xvii) Thiamine (intramuscular or intravenous);
  - (xviii) Lorazepam (injectable);
  - (xix) Dextrose 25%;
  - (xx) Isoetharine (by inhalation);
  - (xxi) Midazolam; and
  - (xxii) Magnesium Sulfate Injectable.
- (3) When transporting from one medical facility to another a patient who is receiving intravenous therapy begun at the transferring facility, and where the capability of continuous two-way voice communication is maintained with a physician, approved ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner located in the sponsor hospital, or when meeting the requirements of Rule .1003 of this Subchapter and upon order of such physician, ~~MICN or MDA, MICN, physician assistant or nurse practitioner~~, EMT-Ps may maintain intravenous lines for the following medications; any fluid or medication specified for use by EMT-Ps during interfacility transports on the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services and approved by the program medical director for use in interfacility transfers.
- (a) IV Antibiotics;
  - (b) Whole Blood and Components;
  - (c) Heparin Drip;
  - (d) Magnesium Sulfate Drip;
  - (e) Nitroglycerin Drip;
  - (f) Potassium Chloride;
  - (g) Urokinase;
  - (h) Streptokinase; and
  - (i) Tissue Plasminogen Activator.
- (4) When transporting from one medical facility to another a patient with critical or life threatening clinical situations as defined in the patient care protocols established by the sponsor hospital of the ALS program, an air ambulance program meeting the criteria specified in Rule .1004 of this Subchapter, or a critical care transport program as defined in 10 NCAC 3D .0807, and where the capability of

continuous two-way voice communication is maintained with a physician approved by the program medical director, EMT-P's may:

- (a) upon order of said physician:
  - (i) insert a femoral venous line;
  - (ii) obtain arterial blood gas samples via peripheral artery or pre-existing arterial line;
  - (iii) perform needle thoracentesis;
  - (iv) perform rapid sequence intubation;
  - (v) maintain invasive monitoring devices to include central venous pressure lines, swan ganz catheters, arterial lines, intra-ventricular catheters, and epidural catheters; and
  - (vi) administer any fluid or medication specified for use by EMT-Ps during critical care transports on the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services and approved by the program medical director for use in critical care transfers.
- (b) perform all the skills of an EMT-P and administer all medications approved for use by EMT-P's enumerated in Items (1), (2), and (3) of this Rule.

Authority G.S. 143-514.

#### .0403 EMERGENCY MEDICAL TECHNICIAN-INTERMEDIATE PERFORMANCE

EMT-Is educated in approved programs, certified by the North Carolina Medical Board to perform medical acts, and functioning in an approved ALS program may do any of the following in accordance with the protocols established by their sponsor hospital:

- (1) While at the scene of a medical emergency where the capability of continuous two-way voice communication is maintained with a physician, approved ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner located in the sponsor hospital, and upon order of such physician, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner:
  - (a) ~~establish an intravenous line in a peripheral vein and administer any of the following intravenous solutions: vein;~~
    - (i) ~~Dextrose 5% in Water;~~
    - (ii) ~~Lactated Ringers Solution;~~
    - (iii) ~~Normal Saline;~~
    - (iv) ~~Dextrose 5% in Lactated Ringer's;~~
    - (v) ~~Dextrose 5% in Normal Saline;~~
    - (vi) ~~Dextrose 5% in 1/2 Normal Saline;~~
    - (vii) ~~Dextrose 5% in 1/4 Normal Saline; and~~
    - (viii) ~~Dextrose 10% in Water;~~
  - (b) perform pulmonary ventilation by means of a blind insertion airway device; device or

endotracheal tube;

- (c) obtain blood for laboratory analysis;
- (d) administer in a fashion via a route approved by the local program medical director any of the following medications; intravenous fluid or medication specified for use by EMT-Is found in the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services; and
  - (i) ~~Dextrose 50%;~~
  - (ii) ~~Epinephrine 1:1000;~~
  - (iii) ~~Albuterol (by inhalation);~~
  - (iv) ~~Heparin (for use with heparin locks);~~
  - (v) ~~Metaproterenol (by inhalation);~~
  - (vi) ~~Terbutaline (injectable or by inhalation);~~
  - (vii) ~~Naloxone;~~
  - (viii) ~~Aspirin;~~
  - (ix) ~~Thiamine (intramuscular or intravenous);~~
  - (x) ~~Dextrose 25%;~~
  - (xi) ~~Isoetharine (by inhalation);~~
  - (xii) ~~Diphenhydramine Injectable;~~
  - (xiii) ~~Epinephrine 1:10,000; and~~
  - (xiv) ~~Glucagon (intramuscular or subcutaneous);~~
- (e) place and maintain heparin or saline locks; and locks.
- (f) use gas-powered or hand-powered nebulizers.
- (2) When confronted with serious or life threatening clinical situations as defined in the patient care protocols established by the sponsor hospital of the ALS program and approved by the Office of Emergency Medical Services, perform as necessary under standing orders any of the following prior to contacting the sponsor hospital:
  - (a) cardiopulmonary resuscitation;
  - (b) defibrillation by means of an automatic or semi-automatic defibrillator;
  - (c) pulmonary ventilation by means of a blind insertion airway device or endotracheal tube only when confronted with a pulseless non-breathing patient; tube;
  - (d) establish an intravenous line in a peripheral vein. If the intravenous line is not successfully established after two attempts, the EMT-I shall contact the sponsor hospital prior to making another attempt; vein;
  - (e) administer the following medications: any fluid or medication specified for use by EMT-Is found in the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services.
    - (i) ~~Albuterol (by inhalation);~~
    - (ii) ~~Dextrose 50%;~~
    - (iii) ~~Epinephrine 1:1000;~~
    - (iv) ~~Metaproterenol (by inhalation);~~

- (v) ~~Terbutaline (injectable or by inhalation);~~
- (vi) ~~Naloxone;~~
- (vii) ~~Aspirin;~~
- (viii) ~~Thiamine (intramuscular or intravenous);~~
- (ix) ~~Dextrose 25%;~~
- (x) ~~Epinephrine 1:10,000; and~~
- (xi) ~~Diphenhydramine Injectable.~~

- (3) When in the presence of an EMT-P ~~or EMT-AI~~, perform any act listed in this Rule upon direction of the EMT-P ~~or EMT-AI~~ as defined by the patient care protocols of the ALS program and approved by the Office of Emergency Medical Services.
- (4) When transporting from one medical facility to another a patient who is receiving intravenous therapy begun at the transferring facility, and where the capability of continuous two-way voice communication is maintained with a physician, approved MICN, physician assistant or nurse practitioner located in the sponsor hospital, or when meeting the requirements of Rule .1003 of this Subchapter and upon order of such physician, MICN, physician assistant or nurse practitioner, EMT-Is may maintain intravenous lines for any fluid or medication specified for use by EMT-Is during interfacility transports on the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services and approved by the program medical director for use in interfacility transfers.

Authority G.S. 143-514.

#### **.0404 MOBILE INTENSIVE CARE NURSE PERFORMANCE**

MICNs currently approved by the North Carolina Medical Board, while functioning under the direction of a physician in the sponsor hospital of an approved ALS program, may direct ALS professionals to perform actions as defined in the adopted patient care protocols established by the sponsor hospital for that ALS program: program and approved by the Office of Emergency Medical Services. All orders issued to ALS professionals by MICNs shall be co-signed countersigned by a physician.

Authority G.S. 143-514.

#### **.0405 ALS PROFESSIONAL PERFORMANCE IN THE PRESENCE OF A PHYSICIAN**

When there is a physician licensed to practice medicine present at the scene of a medical or traumatic emergency and that physician chooses to assume medical responsibility for the patient, the ALS professionals at the scene shall:

- (1) require and allow that physician to contact the sponsor hospital and the physician who receives the call at the sponsor hospital shall make the decision as

- to whether or not the physician on the scene is to be allowed to take charge of the patient and give orders;
- (2) if the physician on the scene is allowed to take charge, permit that physician's orders to take precedence over all other procedures or protocols normally utilized within that ALS program; and
- (3) follow the orders of the physician within the limits enumerated in Rules .0402, .0403, ~~.0406~~ and .0407 of this Section.

Authority G.S. 143-514.

#### **.0406 EMERGENCY MEDICAL TECHNICIAN: ADVANCED INTERMEDIATE PERFORMANCE**

~~EMT-advanced intermediates educated in approved programs, certified by the North Carolina Medical Board to perform medical acts and functioning in an approved ALS program, may do any of the following in accordance with the protocols established by their sponsor hospital:~~

- (1) ~~While at the scene of a medical emergency where the capability of continuous two-way voice communication is maintained with a physician, approved MICN or MDA located in the sponsor hospital, and upon order of such physician, MICN or MDA:~~
- (a) ~~establish an intravenous line in a peripheral vein and administer any of the following intravenous solutions;~~
    - (i) ~~Dextrose 5% in Water;~~
    - (ii) ~~Lactated Ringer's Solution;~~
    - (iii) ~~Normal Saline;~~
    - (iv) ~~Dextrose 5% 1/2 Normal Saline;~~
    - (v) ~~Dextrose 5% 1/4 Normal Saline;~~
    - (vi) ~~Dextrose 5% Normal Saline;~~
    - (vii) ~~Dextrose 10% in Water; and~~
    - (viii) ~~Dextrose 5% Lactated Ringer's Solution;~~
  - (b) ~~obtain blood for laboratory analysis;~~
  - (c) ~~administer in a fashion via a route approved by the local program medical director any of the following medications;~~
    - (i) ~~Albuterol (by inhalation);~~
    - (ii) ~~Atropine;~~
    - (iii) ~~Dextrose 50%;~~
    - (iv) ~~Epinephrine 1:1000;~~
    - (v) ~~Epinephrine 1:10,000;~~
    - (vi) ~~Heparin (for use with heparin locks);~~
    - (vii) ~~Lidocaine;~~
    - (viii) ~~Metaproterenol (by inhalation);~~
    - (ix) ~~Naloxone;~~
    - (x) ~~Sodium Bicarbonate;~~
    - (xi) ~~Terbutaline (injectable or by inhalation);~~
    - (xii) ~~Nitroglycerin Sublingual;~~
    - (xiii) ~~Nitroglycerin Paste;~~
    - (xiv) ~~Aspirin;~~



- (xv) ~~Thiamine (intramuscular or intravenous);~~
- (xvi) ~~Dextrose 25%;~~
- (xvii) ~~Diphenhydramine Injectable;~~
- (xviii) ~~Ketorolac;~~
- (xix) ~~Isoetharine (by inhalation); and~~
- (xx) ~~Glucagon (intramuscular or Subcutaneous);~~
- (d) ~~perform pulmonary ventilation by means of a blind insertion airway device or endotracheal tube;~~
- (e) ~~perform defibrillation;~~
- (f) ~~perform external cardiac pacing;~~
- (g) ~~establish an intraosseous infusion line in patients under 60 months of age and administer any intravenous fluid or medications approved by the North Carolina Medical Board for use by EMT-AIs and approved by the local program medical director for intraosseous infusion;~~
- (h) ~~administer fluids and medications using previously established indwelling semi-permanent central venous catheters;~~
- (i) ~~use positive end expiratory pressure respirators; and~~
- (j) ~~place and maintain heparin or saline locks;~~
- (k) ~~use gas-powered or hand-powered nebulizers;~~
- (2) ~~When confronted with serious or life threatening clinical situations as defined in the patient care protocols established by the sponsor hospital of the ALS program and approved by the Office of Emergency Medical Services, perform as necessary under standing orders any of the following prior to contacting the sponsor hospital:~~
  - (a) ~~cardiopulmonary resuscitation;~~
  - (b) ~~defibrillation;~~
  - (c) ~~pulmonary ventilation by means of a blind insertion airway device or endotracheal tube only when confronted with a pulseless non-breathing patient;~~
  - (d) ~~establish an intravenous line in a peripheral vein. If the intravenous line is not successfully established after two attempts, the EMT-AI shall contact the sponsor hospital prior to making another attempt;~~
  - (e) ~~establish an intraosseous infusion line in patients under 60 months of age and administer any intravenous fluid or medications approved by the North Carolina Medical Board for use by EMT-AI's and approved by the local program medical director for intraosseous infusion;~~
  - (f) ~~administer the following medications:~~
    - (i) ~~Albuterol (by inhalation);~~
    - (ii) ~~Atropine;~~
    - (iii) ~~Dextrose 50%~~
    - (iv) ~~Epinephrine 1:1000;~~

- (v) ~~Epinephrine 1:10,000;~~
- (vi) ~~Lidocaine;~~
- (vii) ~~Metaproterenol (by inhalation);~~
- (viii) ~~Naloxone;~~
- (ix) ~~Sodium Bicarbonate;~~
- (x) ~~Terbutaline (injectable or by inhalation);~~
- (xi) ~~Nitroglycerin;~~
- (xii) ~~Aspirin;~~
- (xiii) ~~Thiamine (intramuscular or intravenous);~~
- (xiv) ~~Dextrose 25%;~~
- (xv) ~~Diphenhydramine Injectable; and~~
- (xvi) ~~Isoetharine (by inhalation);~~

- (3) ~~When transporting a patient from one medical facility to another who is receiving intravenous therapy begun at the transferring facility, and where the capability of continuous two-way voice communication is maintained with a physician, approved MICN or MDA located in the sponsor hospital, or when meeting the requirements of Rule 1003 of this Subchapter and upon order of such physician or MICN, EMT-AIs may maintain intravenous lines for the following medications:~~
  - (a) ~~Whole Blood and Components; and~~
  - (b) ~~Potassium Chloride.~~
- (4) ~~When in the presence of an EMT-P, perform any act listed in this Rule upon direction of the EMT-P as defined by the patient care protocols of the ALS program and approved by the Office of Emergency Medical Services:~~

Authority G.S. 143-514.

#### .0407 EMERGENCY MEDICAL TECHNICIAN-DEFIBRILLATION PERFORMANCE

EMT-Ds educated in approved programs, certified by the North Carolina Medical Board to perform medical acts, and functioning in an approved ALS program may perform any of the following in accordance with the protocols established by their sponsor hospital:

- (1) When confronted with a pulseless non-breathing patient, perform as necessary under standing orders any of the following prior to contacting the sponsor hospital:
  - (a) defibrillation by means of an automatic or semi-automatic defibrillator;
  - (b) pulmonary ventilation by means of a blind insertion airway device; and
  - (c) cardiopulmonary resuscitation.
- (2) When confronted with serious or life threatening clinical situations as defined in the patient care protocols established by the sponsor hospital of the ALS program and approved by the Office of Emergency Medical Services, administer subcutaneously 1:1000 epinephrine to treat systemic allergic reactions under standing orders prior to



contacting the sponsor hospital any fluid or medication specified for use by EMT-Ds found in the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services.

- (3) While at the scene of a medical emergency where the capability of continuous two way voice communication is maintained with a physician, approved MICN, physician assistant or nurse practitioner located in the sponsor hospital, and upon order of such physician, MICN, physician assistant or nurse practitioner, administer in a fashion approved by the program medical director any fluid or medication specified for use by EMT-Ds found in the North Carolina EMS Medication Formulary approved by the Office of Emergency Medical Services.

Authority G.S. 143-514.

#### **.0408 EMERGENCY MEDICAL DISPATCHER PERFORMANCE**

EMDs educated in approved ~~training~~ programs, when certified by the North Carolina Medical Board, and while functioning in an approved Emergency Medical Dispatch program, may do the following in compliance with the protocols established in the emergency medical dispatch priority reference protocol system approved by the ~~program~~ medical director:

- (1) Receive and process calls for medical assistance in a standardized manner, using the approved EMDPRS protocol to elicit required information for evaluating, advising, and treating sick or injured individuals, and dispatching an appropriate EMS response.
- (2) Provide pre-arrival instructions to the patient through the caller when possible and appropriate to do so while functioning in compliance with the EMDPRS.

Authority G.S. 143-514.

#### **.0409 PHYSICIAN ASSISTANT OR NURSE PRACTITIONER PERFORMANCE**

~~MDAs~~ Physician assistants and nurse practitioners currently approved licensed by the North Carolina Medical Board; ~~Board and approved by the Office of Emergency Medical Services.~~ while functioning under the direction of a physician in the sponsor hospital of an approved ALS program, may direct ALS professionals to perform actions as defined in the adopted patient care protocols established by the sponsor hospital for that ALS program. All orders issued to ALS professionals by ~~MDAs~~ physician assistants or nurse practitioners shall be ~~co-~~ signed countersigned by a physician.

Authority G.S. 143-514.

### **SECTION .0500 - CERTIFICATION AND APPROVAL REQUIREMENTS FOR**

#### **ADVANCED LIFE SUPPORT PERSONNEL**

##### **.0501 CERTIFICATION REQUIREMENTS: EMT-PARAMEDIC**

(a) To become certified as an EMT-P, a person shall meet the following ~~criteria: criteria within one year of the approved educational program completion date:~~

- (1) be currently certified as an emergency medical technician in the State of North Carolina;
- (2) be affiliated on a continuous basis with an ambulance provider that has been issued a permit by the Office of Emergency Medical Services ~~and Services, or an approved first responder organization which~~ functions as part of an approved ALS program;
- (3) ~~successfully complete, within one year of application, complete~~ an EMT-P educational program meeting the requirements of the "North Carolina EMT-P Curriculum ~~Outline~~" ~~dated November 1990. Outline.~~ If the educational program was completed over one year prior to application, a person shall submit evidence of completion of pertinent continuing education in emergency medicine taken in the past year and have the continuing education approved by the Office of Emergency Medical Services;
- (4) successfully complete a performance evaluation conducted under the direction of the medical director of the ALS program assessing ~~his~~ the ability to perform the skills and procedures specified in Rule .0402 of this Subchapter;
- (5) be recommended for certification upon examination by an oral interview panel established by the ALS program in which ~~he~~ the person is proposing to function;
- (6) pass a basic life support practical examination approved or administered by the Office of Emergency Medical Services; and
- (7) pass the EMT-P written examination administered by the Office of Emergency Medical Services.

(b) Persons holding current certification as an EMT-P with the National Registry of Emergency Medical Technicians or in another state where the educational and certification requirements have been approved for legal recognition by the Office of Emergency Medical Services may become certified by:

- (1) presenting evidence of such certification for verification by the Office of Emergency Medical Services; and
- (2) meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(4), and (a)(5) of this Rule.

(c) Certification obtained through legal recognition shall be valid for four years or the unexpired term of the certification that was used to obtain a certification in this state, whichever is shorter. All certifications shall be valid for the period stated on the certificate issued to the applicant. This period shall not exceed four years. Persons shall be recertified by presenting documentation to the Office of Emergency Medical Services

that they have successfully completed either of the following options: the following:

- (1) ~~OPTION I:~~
- (A)(1) an ongoing continuing education program under the direction of the medical director, meeting the requirements of "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support Personnel" ~~dated February 1988; Personnel;~~
- (B)(2) an ALS performance evaluation conducted under the direction of the medical director meeting the requirements of "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support Personnel" ~~dated February 1988~~ assessing the ability to perform the skills specified in Rule .0402 of this Subchapter; and
- (C)(3) basic life support practical and EMT-P written examinations examination approved or administered by the Office of Emergency Medical Services, ~~or Services; and~~
- (4) an EMT-P written examination approved or administered by the Office of Emergency Medical Services.
- (2) ~~OPTION II:~~
- (A) ~~the criteria specified in Subparagraph (c)(1)(A) and (c)(1)(B) of this Rule;~~
- (B) ~~at least one basic life support skills evaluation following guidelines established by the Office of Emergency Medical Services conducted under the direction of the medical director assessing the ability to perform the skills required of an emergency medical technician as specified by the North Carolina Medical Care Commission; and~~
- (C) ~~at least one EMT-P written examination following guidelines established by the Office of Emergency Medical Services administered under the direction of the medical director in compliance with the test specifications of the state EMT-P written examination.~~

Authority G.S. 143-514.

## **.0502 CERTIFICATION REQUIREMENTS: EMT-INTERMEDIATE**

(a) To become certified as an EMT-I a person shall meet the following criteria: criteria within one year of the approved educational program completion date:

- (1) be currently certified as an emergency medical technician in the State of North Carolina;
- (2) be affiliated on a continuous basis with an ambulance provider that has been issued a permit by the Office of Emergency Medical Services ~~and Services, or an~~ approved first responder organization which functions as part of an approved ALS program;
- (3) successfully ~~complete, within one year of~~

application, complete an EMT-I educational program meeting the requirements of the "North Carolina EMT-I Curriculum ~~Outline~~" dated November 1996 Outline. If the educational program was completed over one year prior to application, a person shall submit evidence of completion of pertinent continuing education in emergency medicine taken in the past year and have the continuing education approved by the Office of Emergency Medical Services;

- (4) successfully complete a performance evaluation conducted under the direction of the medical director of the ALS program assessing ~~his~~ the ability to perform the skills and procedures specified in Rule .0403 of this Subchapter;
- (5) be recommended for certification upon examination by an oral interview panel established by the ALS program in which ~~he~~ the person is proposing to function;
- (6) pass a basic life support practical examination approved or administered by the Office of Emergency Medical Services; and
- (7) pass the EMT-I written examination administered by the Office of Emergency Medical Services.

(b) Persons holding current certification as an EMT-I with the National Registry of Emergency Medical Technicians or in another state where the educational and certification requirements have been approved for legal recognition by the Office of Emergency Medical Services may become certified by:

- (1) presenting evidence of such certification for verification by the Office of Emergency Medical Services; and
- (2) meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(4), and (a)(5) of this Rule.

(c) Certification obtained through legal recognition shall be valid for four years or the unexpired term of the certification that was used to obtain a certification in this state, whichever is shorter. All certifications shall be valid for the period stated on the certification issued to the applicant. This period shall not exceed four years. Persons shall be recertified by presenting documentation to the Office of Emergency Medical Services that they have successfully completed ~~either of the following options: the following:~~

(1) ~~OPTION I:~~

- (A)(1) an ongoing continuing education program under the direction of the medical director, meeting the requirements of "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support Personnel" ~~dated February 1988; Personnel;~~
- (B)(2) an ALS performance evaluation conducted under the direction of the medical director meeting the requirements of "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support Personnel" ~~dated February 1988~~ assessing the ability to perform

the skills specified in Rule .0403 of this Subchapter; and

- (3) ~~basic life support practical and EMT-I written examinations examination approved or administered by the Office of Emergency Medical Services; or and~~  
(4) ~~an EMT-I written examination approved or administered by the Office of Emergency Medical Services.~~

(2) ~~OPTION H:~~

- (A) ~~the criteria specified in Subparagraph (c)(1)(A) and (c)(1)(B) of this Rule;~~  
(B) ~~at least one basic life support skills evaluation following guidelines established by the Office of Emergency Medical Services conducted under the direction of the medical director assessing the ability to perform the skills required of an emergency medical technician as specified by the North Carolina Medical Care Commission; and~~  
(C) ~~at least one EMT-I written examination following guidelines established by the Office of Emergency Medical Services administered under the direction of the medical director in compliance with the test specifications of the state EMT-I written examination.~~

Authority G.S. 143-514.

**.0503 APPROVAL REQUIREMENTS: MOBILE INTENSIVE CARE NURSE**

(a) To be approved as a MICN, a person must meet the following ~~criteria: criteria within one year of the approved educational program completion date:~~

- (1) be currently licensed as a registered nurse in the State of North Carolina;
- (2) be affiliated on a continuous basis with a sponsor hospital which is part of an approved ALS program;
- (3) have a minimum of two years emergency or critical care nursing experience, or a combination of this experience;
- (4) present evidence of successful completion of a MICN educational program meeting the requirements of the "North Carolina MICN Curriculum Outline" dated November 1990 incorporated herein by reference including subsequent amendments and editions. Outline. If the educational program was completed over one year prior to application, a person must submit evidence of completion of pertinent continuing education in emergency medicine taken in the past year and have the continuing education approved by the Office of Emergency Medical Services; and
- (5) be recommended by the medical director of the ALS program after determining that the applicant is adequately familiar with the patient care and operational protocols of the ALS program.

(b) Approval shall be valid for a period not to exceed four

years at which time the person may be reapproved by successfully completing an approved MICN reapproval program under the direction of the medical director, meeting the requirements of "Guidelines for Reapproval Approval/Reapproval of Mobile Intensive Care Nurses" dated May 1992 incorporated herein by reference including subsequent amendments and editions. Nurses."

Authority G.S. 143-514.

**.0504 CERTIFICATION REQUIREMENTS: EMT-ADVANCED INTERMEDIATE**

(a) To become certified as an EMT-AI a person shall meet the following criteria:

- (1) ~~be currently certified as an emergency medical technician in the State of North Carolina;~~
- (2) ~~be affiliated on a continuous basis with an ambulance provider that has been issued a permit by the Office of Emergency Medical Services and functions as part of an approved ALS program;~~
- (3) ~~successfully complete, within one year of application, an EMT-AI educational program meeting the requirements of the "North Carolina EMT-AI Curriculum Outline" dated November 1990. If the educational program was completed over one year prior to application, a person shall submit evidence of completion of pertinent continuing education in emergency medicine taken in the past year and have the continuing education approved by the Office of Emergency Medical Services;~~
- (4) ~~successfully complete a performance evaluation conducted under the direction of the medical director of the ALS program assessing his ability to perform the skills and procedures specified in Rule .0406 of this Subchapter;~~
- (5) ~~be recommended for certification upon examination by an oral interview panel established by the ALS program in which he is proposing to function;~~
- (6) ~~pass a basic life support practical examination approved or administered by the Office of Emergency Medical Services; and~~
- (7) ~~pass the EMT-AI written examination administered by the Office of Emergency Medical Services.~~

(b) Persons holding current certification equivalent to an EMT-AI with the National Registry of Emergency Medical Technicians or in another state where the educational and certification requirements have been approved for legal recognition by the Office of Emergency Medical Services may become certified by:

- (1) ~~presenting evidence of such certification for verification by the Office of Emergency Medical Services; and~~
- (2) ~~meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(4), and (a)(5) of this Rule.~~

(c) Certification obtained through legal recognition shall be valid for four years or the unexpired term of the certification that was used to obtain a certification in this state, whichever

is shorter. All certifications shall be valid for the period stated on the certificate issued to the applicant. This period shall not exceed four years. Persons shall be recertified by presenting documentation to the Office of Emergency Medical Services that they have successfully completed either of the following options:

(1) ~~OPTION I:~~

- (A) ~~an ongoing continuing education program under the direction of the medical director, meeting the requirements of "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support Personnel" dated February 1988;~~
- (B) ~~an ALS performance evaluation conducted under the direction of the medical director meeting the requirements of "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support Personnel" dated February 1988 assessing the ability to perform the skills specified in Rule .0406 of this Subchapter; and~~
- (C) ~~basic life support practical and EMT-AI written examinations administered by the Office of Emergency Medical Services; or~~

(2) ~~OPTION II:~~

- (A) ~~the criteria specified in Subparagraph (c)(1)(A) and (c)(1)(B) of this Rule;~~
- (B) ~~at least one basic life support skills evaluation following guidelines established by the Office of Emergency Medical Services and conducted under the direction of the medical director assessing the ability to perform the skills required of an emergency medical technician as specified by the North Carolina Medical Care Commission; and~~
- (C) ~~at least one EMT-AI written examination following guidelines established by the Office of Emergency Medical Services and administered under the direction of the medical director in compliance with the test specifications of the state EMT-AI written examination.~~

Authority G.S. 143-514.

**.0505 CERTIFICATION REQUIREMENTS:  
EMT-DEFIBRILLATION**

(a) To become certified as an EMT-D a person shall meet the following criteria: criteria within one year of the approved educational program completion date:

- (1) be currently certified as an emergency medical technician in the State of North Carolina;
- (2) be affiliated on a continuous basis with an ambulance provider that has been issued a permit by the Office of Emergency Medical Services, or an approved first

responder organization which functions as part of an approved ALS program;

- (3) ~~successfully complete, within one year of application, complete an EMT-D educational program meeting the requirements of the "North Carolina EMT-D Curriculum Outline" dated November 1990: Outline.~~ If the educational program was completed over one year prior to application, a person shall submit evidence of completion of pertinent continuing education in emergency medicine taken in the past year and have the continuing education approved by the Office of Emergency Medical Services;
- (4) successfully complete a performance evaluation conducted under the direction of the medical director of the ALS program assessing his the ability to perform the skills and procedures specified in Rule .0407 of this Subchapter;
- (5) pass a basic life support practical examination approved or administered by the Office of Emergency Medical Services; and
- (6) pass the EMT-D written examination administered by the Office of Emergency Medical Services.

(b) Persons holding current certification equivalent to EMT-D with the National Registry of Emergency Medical Technicians or in another state where the educational and certification requirements have been approved for legal recognition by the Office of Emergency Medical Services may become certified by:

- (1) presenting evidence of such certification for verification by the Office of Emergency Medical Services; and
- (2) meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(4), and (a)(5) of this Rule.

(c) Certification obtained through legal recognition shall be valid for four years or the unexpired term of the certification that was used to obtain a certification in this state, whichever is shorter. All certifications shall be valid for the period stated on the certificate issued to the applicant. This period shall not exceed four years. Persons shall be recertified by presenting documentation to the Office of Emergency Medical Services that they have successfully completed ~~either of the following options:~~ the following:

(1) ~~OPTION I:~~

- (A)(1) an ongoing continuing education program under the direction of the medical director, meeting the requirements of "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support ~~Personnel~~" ~~dated February 1988; Personnel~~;
- (B)(2) an ALS performance evaluation conducted under the direction of the medical director meeting the requirements of "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support Personnel" ~~dated February 1988~~ assessing the ability to perform the skills specified in Rule .0407 of this Subchapter;

- and  
(E)(3) basic life support practical ~~and EMT-D written examinations~~ examination approved or administered by the Office of Emergency Medical Services; ~~or and~~  
(4) an EMT-D written examination approved or administered by the Office of Emergency Medical Services.  
(2) ~~OPTION II:~~  
(A) ~~the criteria specified in Subparagraph (c)(1)(A) and (c)(1)(B) of this Rule;~~  
(B) ~~at least one basic life support skills evaluation following guidelines established by the Office of Emergency Medical Services and conducted under the direction of the medical director assessing the ability to perform the skills required of an emergency medical technician as specified by the North Carolina Medical Care Commission; and~~  
(C) ~~at least one EMT-D written examination following guidelines established by the Office of Emergency Medical Services and administered under the direction of the medical director in compliance with the test specifications of the state EMT-D written examination.~~

Authority G.S. 143-514.

**.0506 CERTIFICATION REQUIREMENTS:  
EMERGENCY MEDICAL DISPATCHER**

- (a) To become certified as an EMD, a person shall meet the following ~~criteria:~~ criteria within one year of the approved educational program completion date:  
(1) be at least 18 years of age;  
(2) be affiliated on a continuous basis with an emergency medical dispatch program approved by the Office of Emergency Medical Services;  
(3) successfully complete, within one year prior to application, an American Heart Association (AHA) ~~Level "C"~~ cardiopulmonary resuscitation (CPR) course including adult and infant CPR or equivalent;  
(4) ~~successfully complete, within one year prior to application, complete~~ an approved EMD educational program meeting the requirements of the "Guidelines for Development and Operation of Emergency Medical Dispatch Programs" dated March 1995. Programs. If the educational program was completed over one year prior to application, a person shall submit evidence of completion of pertinent continuing education in emergency medical dispatch taken in the past year and have the continuing education approved by the Office of Emergency Medical Services;  
(5) successfully complete an evaluation conducted under the direction of the medical director of the EMD program assessing the ability to perform the skills and procedures specified in Rule .0408 of this

Subchapter; and be recommended for certification examination.

- (6) pass the EMD written examination administered or approved by the Office of Emergency Medical Services.  
(b) Persons holding current certification equivalent to EMD where the educational and certification requirements have been approved for legal recognition by the Office of Emergency Medical Services may become certified by:  
(1) presenting evidence of such certification for verification by the Office of Emergency Medical Services; and  
(2) meeting the criteria specified in Subparagraphs (a)(1), (a)(2), (a)(3), and (a)(5) of this Rule.  
(c) Certification obtained through legal recognition shall be valid for four years or the unexpired term of the certification that was used to obtain a certification in this state, whichever is shorter. All certifications shall be valid for the period stated on the certificate issued to the applicant by the Office of Emergency Medical Services. This period shall not exceed four years. Persons shall be recertified by presenting documentation to the Office of Emergency Medical Services that they have successfully completed either of the following options: the following:  
(1) ~~OPTION I:~~  
(A)(1) an ongoing continuing education program under the direction of the medical director, meeting the requirements of "Guidelines for Development and Operation of Emergency Medical Dispatch Programs" dated March 1995; Programs;  
(B)(2) an EMD performance evaluation conducted under the direction of the medical director meeting the requirements of "Guidelines for Development and Operation of Emergency Medical Dispatch Programs" dated March 1995 assessing the ability to perform the skills specified in Rule .0408 of this Subchapter; and  
(E)(3) an EMD written examination approved or administered by the Office of Emergency Medical Services; or Services.  
(2) ~~OPTION II:~~  
(A) ~~the criteria specified in Subparagraph (c)(1)(A) and (c)(1)(B) of this Rule;~~  
(B) ~~a written examination following guidelines established by the Office of Emergency Medical Services and administered under the direction of the medical director in compliance with the test specifications of the state EMD written examination.~~

Authority G.S. 143-514.

**.0507 APPROVAL REQUIREMENTS:  
PHYSICIAN ASSISTANT AND NURSE  
PRACTITIONER**

- (a) To be approved as a ~~MDA~~, physician assistant or nurse practitioner, a person shall must meet the following criteria:

criteria within one year of the approved educational program completion date:

- (1) be currently approved and ~~registered~~ licensed as a physician assistant or nurse practitioner in the State of North Carolina;
- (2) be affiliated on a continuous basis with a sponsor hospital which is part of an approved ALS program;
- (3) have a minimum of two years emergency or critical care experience, or a combination of this experience;
- (4) present evidence of successful completion of a ~~MDA physician assistant or nurse practitioner~~ educational program meeting the requirements of the "North Carolina MDA Physician Assistant and Nurse Practitioner EMS Curriculum Outline" dated November 1995. Outline. If the educational program was completed over one year prior to application, a person shall submit evidence of completion of pertinent continuing education in emergency medicine taken in the past year and have the continuing education approved by the Office of Emergency Medical Services; and
- (5) be recommended by the medical director of the ALS program after determining that the applicant is adequately familiar with the patient care and operational protocols of the ALS program.

(b) Approval shall be valid for a period not to exceed four years at which time the person may be reapproved by successfully completing an approved ~~MDA physician assistant or nurse practitioner~~ reapproval program under the direction of the medical director, meeting the requirements of "Guidelines for Reapproval of Medical Direction Assistants" dated November 1995. Approval/Reapproval of Physician Assistants and Nurse Practitioners Functioning In EMS Programs.

Authority G.S. 143-514.

#### **.0508 AEROMEDICAL MEDICAL CREW MEMBERS**

All medical crew members, including speciality teams shall meet, at a minimum, the following criteria:

- (1) Fly an average of at least five missions per month per six month period or complete refresher education in aircraft safety every six months; and
- (2) Complete refresher education in aircraft safety on an annual basis.

Authority G.S. 143-514.

#### **SECTION .0600 - ENFORCEMENT**

#### **.0601 GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION**

(a) The North Carolina Medical Board may deny, suspend or revoke the approval of an ALS program, EMD program, or sponsor hospital for any of the following reasons:

- (1) failure to comply with the requirements as found in Sections .0200 and .0300 of this Subchapter; or

- (2) obtaining approval through fraud or misrepresentation.

(b) The North Carolina Medical Board may deny, suspend or revoke the certification of an ALS professional or the approval of a ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner for any of the following reasons:

- (1) failure to comply with the applicable performance and certification and approval requirements as found in this Subchapter;
- (2) immoral or dishonorable conduct;
- (3) making false statements or representations to the North Carolina Medical Board or the Office of Emergency Medical Services or willfully concealing of material information in connection with an application for certification or approval.
- (4) being unable to perform as an ALS professional, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner with reasonable skill and safety to patients and the public by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality;
- (5) unprofessional conduct, including but not limited to a failure to comply with the rules relating to the proper function of an ALS professional, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner contained in this Subchapter or the performance of or attempt to perform a procedure which is detrimental to the health and safety of a patient or which is beyond the scope and responsibility of the ALS professional, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner;
- (6) conviction in any court of a crime involving moral turpitude, a conviction of a felony, or conviction of a crime involving the function of an ALS professional, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner;
- (7) by false representations obtaining or attempting to obtain money or anything of value from a patient;
- (8) adjudication of mental incompetence;
- (9) lack of professional competence to practice with a reasonable degree of skill and safety for patients including but not limited to a failure to perform a prescribed procedure, failure to perform a prescribed procedure competently or performance of a procedure which is not within the scope of official duties of the ALS professional, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner;
- (10) failure to respond within a reasonable period of time and in a reasonable manner to inquiries from the North Carolina Medical Board or the Office of Emergency Medical Services concerning any matter relating to the practice of an ALS professional, ~~MICN or MDA~~ MICN, physician assistant or nurse practitioner;
- (11) testing positive for substance abuse by blood, urine



- or breath testing while on duty as an ALS professional, ~~MHCN or MDA~~ MICN, physician assistant or nurse practitioner; or
- (12) representing or allowing others to represent that the ALS professional, ~~MHCN or MDA~~ MICN, physician assistant or nurse practitioner is a physician or otherwise has a certification or approval that the ALS professional, ~~MHCN or MDA~~ MICN, physician assistant or nurse practitioner does not in fact have.

Authority G.S. 143-514.

**.0602 PROCEDURES FOR DENIAL, SUSPENSION, OR REVOCATION**

(a) The North Carolina Medical Board may deny, suspend or revoke the certification of an ALS professional or the approval of a MICN, ~~MDA~~ physician assistant, nurse practitioner, sponsor hospital, EMD program or ALS program in accordance with Article 3A of G.S. 150B.

(b) Notwithstanding Paragraph (a) of this Rule, the North Carolina Medical Board may summarily suspend the certification of an ALS professional, the approval of a MICN, ~~MDA~~ physician assistant, nurse practitioner, sponsor hospital, EMD program or ALS program as specified in G.S. 150B-3(c).

Authority G.S. 143-514.

**SECTION .0800 - FORMS**

**.0801 REQUIRED FORMS AND DOCUMENTS**

(a) The following forms are required for certification or approval:

- (1) Certification Application Form;
- (2) ALS Personnel Verification Form;

(b) The following documents are required for educational and evaluation programs and incorporated herein by reference including subsequent amendments and editions. Copies of these documents are available free of charge from the Office of Emergency Medical Services, PO Box 29530, Raleigh, NC 27626-0530:

- (1) "North Carolina EMT-P Curriculum ~~Outline~~" dated ~~November 1990~~; Outline;
- (2) ~~"North Carolina EMT-AI Curriculum Outline" dated November 1990;~~
- (3)(2) "North Carolina EMT-I Curriculum ~~Outline~~" dated ~~November 1990~~; Outline;
- (4)(3) "North Carolina EMT-D Curriculum ~~Outline~~" dated ~~November 1990~~; Outline;
- (5)(4) "North Carolina MICN Curriculum ~~Outline~~" dated ~~November 1990~~ Outline;
- (6)(5) "Guidelines for Continuing Education and Performance Evaluation of Emergency Medical Services Advanced Life Support Personnel" dated ~~February 1988~~; Personnel;
- (7)(6) "Guidelines for ~~Reapproval~~ Approval/Reapproval of Mobile Intensive Care Nurses" dated ~~November 1993~~; Nurses;

- (8)(7) "Guidelines for the Selection and Performance of the Emergency Medical Services Nurse ~~Liaison~~" dated ~~October 1990~~; Liaison;
- (9)(8) "Guidelines for Development and Operation of Emergency Medical Dispatch ~~Programs~~" dated ~~March 1995~~; Programs;
- (10)(9) "North Carolina ~~MDA~~ Physician Assistant and Nurse Practitioner Curriculum ~~Outline~~" dated ~~November 1995~~; and Outline;
- (11)(10) "Guidelines for ~~Reapproval~~ Approval/Reapproval of ~~Medical Direction Assistants~~" dated ~~November 1995~~; Physician Assistants and Nurse Practitioners Functioning In EMS Programs;
- (11) "Guidelines for Continuing Education and Performance Evaluation of Early Defibrillation Responders"; and
- (12) "North Carolina EMS Medication Formulary."

Authority G.S. 143-514.

**SECTION .0900 - STUDY PROJECTS**

**.0901 CONDITIONS**

(a) Persons proposing to undertake a study project shall have a project director who is a physician licensed to practice medicine in the State of North Carolina and shall submit a written proposal to the Office of Emergency Medical Services for presentation to the North Carolina Medical Board. The proposal shall include the following:

- (1) a description of the purpose of the project, an explanation of the proposed project, the methodology to be used in implementing the project, and the geographical area to be covered by the proposed project;
  - (2) a list of the ALS programs, EMD programs, ambulance providers, and hospitals participating in the project;
  - (3) a signed statement of endorsement from the medical director of each participating ALS program, EMD program, the chief executive officer of each participating hospital, and the director of each participating ambulance provider;
  - (4) a description of the skills to be utilized by the ALS professionals if different from those specified in this Subchapter, the provisions for training and supervising the personnel who are to utilize these skills and the names of such personnel; and
  - (5) the name and signature of the project director attesting to ~~his~~ the approval of the proposal.
- (b) The hospitals and ambulance providers participating in the project shall be a part of an approved ALS program.
- (c) The time period for the project shall not exceed three years.

Authority G.S. 143-514.

**SECTION .1000 - MEDICAL CONTROL**

**.1004 AIR AMBULANCE PROGRAM  
CRITERIA**

(a) Air ambulance programs operating under the authority of 10 NCAC 3D .0801(b)(4)(B) must submit a proposal for program approval to the Office of Emergency Medical Services at least 60 days prior to field implementation. The proposal must document that the program has:

- (1) a defined service area;
- (2) a physician medical director responsible for:
  - (A) the establishment and updating of treatment and transfer protocols;
  - (B) medical supervision of the selection, education, and performance of medical crew members as defined in ~~10 NCAC 3D .1204~~; Rule .0102(2) of this Subchapter;
  - (C) the medical review of patient care; and
  - (D) medical management of the program. ~~Pending formal review, the~~ The medical director may temporarily ~~suspend~~ suspend, pending due process review, from the program any medical crew member whose actions or medical care are determined to be detrimental to patient care;
- (3) adequate medical crew members educated, in accordance with ~~10 NCAC 3D .1204~~; Rule .0508 of

this Subchapter, to ensure that the program will be continuously available on a 24 hour-a-day basis; an audit and review panel which meets at a minimum on a quarterly basis to:

- (A) review cases and determine the appropriateness of medical care rendered;
  - (B) make recommendations to the medical director about the continuing education needed by medical crew members; and
  - (C) review and revise policies, procedures, and protocols for the program;
- (5) patient transfer protocols that have been reviewed and approved by the Office of Emergency Medical Services.

(b) Air ambulance programs based outside of North Carolina may be granted approval by the Office of Emergency Medical Services to operate in North Carolina under 10 NCAC 3D .0801(b)(4)(B) by submitting a proposal for program approval. The proposal must document that the program meets all criteria specified in Paragraph .1004(a) of this ~~Rule~~; Rule, and has been issued a Certificate of Need by the Department.

*Authority G.S. 143-514.*



*The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.*

**TITLE 10 - DEPARTMENT OF HUMAN RESOURCES**

**Rule-making Agency:** DHR - Division of Medical Assistance

**Rule Citation:** 10 NCAC 26H .0602

**Effective Date:** July 25, 1997

**Findings Reviewed by** Julian Mann, III: *Approved*

**Authority for the rule-making:** G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c.479, s.86; 42 C.F.R. 440.70

**Reason for Proposed Action:** *This action is based on a home health study conducted by the Division of Medical Assistance and results in the home health aide prospective rate being more nearly aligned to average industry cost. The proposed change will result in annual savings of approximately 900 thousand dollars to the Medicaid program.*

**Comment Procedures:** *Written comments concerning this rule-making action must be submitted by October 14, 1997 to Portia Rochelle, APA Coordinator, Division of Medical Assistance, 1985 Umstead Drive, Raleigh, NC 27603.*

**CHAPTER 26 - MEDICAL ASSISTANCE**

**SUBCHAPTER 26H - REIMBURSEMENT PLANS**

**SECTION .0600 - HOME HEALTH PROSPECTIVE REIMBURSEMENT**

**.0602 REIMBURSEMENT METHODS**

(a) A maximum rate per visit is established annually for each of the following services:

- (1) Registered or Licensed Practical Nursing Visit;
- (2) Physical Therapy Visit;
- (3) Speech Therapy Visit;
- (4) Occupational Therapy Visit;
- (5) Home Health Aide Visit.

(b) The maximum rates for the services identified in Paragraph (a) of this Rule are computed and applied as follows:

- (1) Payment of claims for visits is based on the lower of the billed customary charges or the maximum rate of the particular service. Governmental providers with nominal charges may bill at cost. For this purpose, a charge that is less than 50 percent of cost is considered a nominal charge. For such governmental providers, the payment amount is equal to the lower of the cost as billed or the applicable maximum rate.
- (2) Maximum per visit rates effective July 1, 1996, for Registered or Licensed Practical Nursing, Physical

Therapy, Speech Therapy, and Occupational Therapy ~~and Home Health Aide~~ shall be equal to the rates in effect on July 1, 1995.

(3) To compute the annual maximum rates effective each July 1 subsequent to July 1, 1996, the maximum rates per visit are adjusted as described in Subparagraphs (4), (5), and (6) of this Paragraph.

(3) Maximum per visit rate effective July 1, 1996 for Home Health Aide shall be equal to the rate in effect on July 1, 1995. To compute the annual maximum rates effective each July 1 subsequent to July 1, 1996, the fiftieth percentile cost per visit calculated from the base year 1994 cost reports is adjusted as described in Subparagraphs (4), (5), and (6) of this Paragraph.

(4) Each year maximum rates are adjusted by an annual cost index factor. The cost index has a labor component with a relative weight of 75 percent and a non-labor component with a relative weight of 25 percent. The relative weights are derived from the Medicare Home Health Agency Input Price Index published in the Federal Register dated May 30, 1986. Labor cost changes are measured by the annual percentage change in the average hourly earnings of North Carolina service wages per worker. Non-labor cost changes are measured by the annual percentage change in the GNP Implicit Price Deflator.

(5) The annual cost index equals the sum of the products of multiplying the forecasted labor cost percentage change by 75 percent and multiplying the forecasted non-labor cost percentage change by 25 percent. For services included under Subparagraph (2) of this Paragraph, the July 1, 1996 effective rates are multiplied by the cost index factor for each subsequent year up to the year in which the rates apply. For services included under Subparagraph (3) of this Paragraph, base year costs per visit are multiplied by the cost index factor for each subsequent year up to the year in which rates apply.

(6) Other adjustments may be necessary for home health services to comply with federal or state laws or rules.

(c) Medical supplies except those related to provision and use of Durable Medical Equipment are reimbursed at the lower of a provider's billed customary charges or a maximum amount determined for each supply item. Fees will be established based on average, reasonable charges if a Medicare allowable amount cannot be obtained for a particular supply item. Estimates of reasonable cost will be used if a Medicare allowable amount cannot be obtained for a particular supply or equipment item. The Medicare allowable amounts will be those amounts available to the Division of Medical Assistance as of

July 1 of each year.

(d) These changes to the Payment for Services Prospective Reimbursement Plan for Home Health Agencies will become effective when the Health Care Financing Administration, US Department Health and Human Services, approves amendment submitted to HCFA by the Director of the Division of Medical Assistance on or about July 1, ~~1996~~ 1997 as ~~#MA96-03~~ #MA97-06 wherein the Director proposes amendments of the State Plan to amend Payment for Services - Prospective Reimbursement Plan for Home Health Agencies.

*History Note:* Authority G.S. 108A-25(b); 108A-54; 108A-55; S.L. 1985, c.479, s. 86; 42 C.F.R. 440.70;

*Eff.* October 1, 1987;

*Amended Eff.* October 1, 1992; May 1, 1990;

*Temporary Amendment Eff.* October 4, 1996;

*Amended Eff.* April 1, 1997;

*Temporary Amendment Eff.* July 25, 1997.

## TITLE 21 - OCCUPATIONAL LICENSING BOARDS

### CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

**Rule-making Agency:** North Carolina Medical Board

**Rule Citation:** 21 NCAC 32H .0402

**Effective Date:** July 28, 1997

**Findings Reviewed and Approved by:** Beecher R. Gray

**Authority for the rule-making:** G.S. 143-514

**Reason for Proposed Action:** Fosphenytoin (Cerebyx) is manufactured by Parke-Davis and, as of January 1, 1997 has permanently replaced Dilantin (phenytoin). Park-Davis no longer manufactures Dilantin, however there are approximately 12 companies which continue to offer generic forms of parenteral phenytoin. A temporary rule to include Fosphenytoin in the medication for use by EMT-Paramedics will allow local ALS medical directors to implement its use in their EMS protocols immediately.

**Comment Procedures:** Persons who wish to make comment regarding this rule change should contact: Mr. Ed Browning, Assistant Chief - Education, NC Office of Emergency Medical Services, PO Box 29530, Raleigh, North Carolina 27626-0530, Tele: (919) 733-2285, FAX: (919) 733-7021.

### SUBCHAPTER 32H - EMERGENCY MEDICAL SERVICES ADVANCED LIFE SUPPORT

#### SECTION .0400 - EDUCATION AND

## PERFORMANCE OF ADVANCED LIFE SUPPORT PERSONNEL

### .0402 EMERGENCY MEDICAL TECHNICIAN- PARAMEDIC PERFORMANCE

EMT-Ps educated in approved programs, certified by the North Carolina Medical Board to perform medical acts, and functioning in an approved ALS program may do any of the following in accordance with the protocols established by their sponsor hospital:

(1) While at the scene of a medical emergency where the capability of continuous two-way voice communication is maintained with a physician, approved MICN or MDA located in the sponsor hospital, and upon order of such physician, MICN or MDA:

- (a) establish an intravenous line in a peripheral vein and administer any of the following intravenous solutions:
  - (i) Dextrose 5% in Water;
  - (ii) Lactated Ringers Solution;
  - (iii) Normal Saline;
  - (iv) Dextrose 5% Lactated Ringers;
  - (v) Dextrose 5% 1/2 Normal Saline;
  - (vi) Dextrose 5% 1/4 Normal Saline;
  - (vii) Dextrose 10% in Water; and
  - (viii) Dextrose 5% Normal Saline;
- (b) obtain blood for laboratory analysis;
- (c) administer in a fashion via a route approved by the local program medical director any of the following medications:

#### ADVANCED CARDIAC LIFE SUPPORT MEDICATIONS:

- (i) Atropine;
- (ii) Bretylium;
- (iii) Calcium Chloride/Gluconate;
- (iv) Dobutamine;
- (v) Epinephrine 1:1000;
- (vi) Epinephrine 1:10,000;
- (vii) Isoproterenol;
- (viii) Lidocaine;
- (ix) Sodium Chloride Injection;
- (x) Procainamide;
- (xi) Sodium Bicarbonate; and
- (xii) Dopamine;

#### ANESTHETICS:

- (i) Lidocaine 1% or 2%;
- (ii) Procaine 1% or 2%;

#### CARDIORESPIRATORY AGENTS:

- (i) Adenosine;
- (ii) Albuterol (by inhalation);
- (iii) Aminophylline;
- (iv) Furosemide;
- (v) Isoetharine (by inhalation);
- (vi) Metaproterenol (by inhalation);
- (vii) Nifedipine;
- (viii) Nitroglycerin Sublingual;

- (ix) Nitroglycerin Paste;
- (x) Propranolol;
- (xi) Racemic Epinephrine (by inhalation);
- (xii) Terbutaline (injectable or by inhalation); and
- (xiii) Verapamil;

OTHER MEDICATIONS:

- (i) Diazepam Injectable;
- (ii) Diphenhydramine Injectable;
- (iii) Dextrose 50%;
- (iv) Glucagon (Intramuscular or Subcutaneous);
- (v) Heparin (for use with heparin locks);
- (vi) IV Steroid Preparations;
- (vii) Mannitol;
- (viii) Naloxone;
- (ix) Phenytoin Injectable;
- (x) Promethazine;
- (xi) Thiamine (intramuscular or intravenous);
- (xii) Aspirin;
- (xiii) Lorazepam Injectable;
- (xiv) Amyl Nitrite (Pearls);
- (xv) Flumazenil;
- (xvi) Dextrose 25%;
- (xvii) Ketorolac;
- (xviii) Midazolam; and
- (xix) Magnesium Sulfate Injectable; and
- (xx) Fosphenytoin;

ANALGESICS:

- (i) Meperidine;
- (ii) Morphine Sulfate;
- (iii) Nalbuphine Hydrochloride; and
- (iv) Nitrous Oxide (via respiratory route);
- (d) perform pulmonary ventilation by means of a blind insertion airway device or endotracheal tube;
- (e) perform defibrillation or cardioversion;
- (f) use gas-powered or hand-powered nebulizers;
- (g) decompress a tension pneumothorax by use of a catheter-flutter-valve device;
- (h) use positive end expiratory pressure respirators;
- (i) perform cricothyrotomy for relief of upper airway obstruction;
- (j) perform gastric suction by intubation;
- (k) perform urinary catheterization;
- (l) perform external cardiac pacing;
- (m) establish an intraosseous infusion line in patients under 60 months of age and use it to administer any intravenous fluid or medication specified in this Rule approved by the local program medical director for intraosseous infusion;
- (n) administer fluids and medications using previously established indwelling semi-permanent central venous catheters; and

- (o) place and maintain heparin or saline locks.
- (2) When confronted with serious or life threatening clinical situations as defined in the patient care protocols established by the sponsor hospital of the ALS program and approved by the Office of Emergency Medical Services, perform as necessary under standing orders any of the following prior to contacting the sponsor hospital:

- (a) cardiopulmonary resuscitation;
- (b) defibrillation, cardioversion, or external cardiac pacing;
- (c) pulmonary ventilation by means of a blind insertion airway device or endotracheal tube;
- (d) establish an intravenous line in a peripheral vein. If the intravenous line is not successfully established after two attempts, the EMT-P shall contact the sponsor hospital prior to making another attempt;
- (e) establish an intraosseous infusion line in patients under 60 months of age and use it to administer any intravenous fluid or medication specified in this Rule approved by the local medical program director for intraosseous infusion;
- (f) administer the following medications:
  - (i) Albuterol (by inhalation);
  - (ii) Bretylium;
  - (iii) Epinephrine 1:1000;
  - (iv) Epinephrine 1:10,000;
  - (v) Furosemide;
  - (vi) Metaproterenol (by inhalation);
  - (vii) Nitroglycerin;
  - (viii) Terbutaline (injectable or by inhalation);
  - (ix) Atropine;
  - (x) Dextrose 50%;
  - (xi) Lidocaine;
  - (xii) Naloxone;
  - (xiii) Sodium Bicarbonate.
  - (xiv) Diazepam Injectable;
  - (xv) Diphenhydramine Injectable;
  - (xvi) Aspirin;
  - (xvii) Thiamine (intramuscular or intravenous);
  - (xviii) Lorazepam (injectable);
  - (xix) Dextrose 25%;
  - (xx) Isoetharine (by inhalation);
  - (xxi) Midazolam; and
  - (xxii) Magnesium Sulfate Injectable.

- (3) When transporting from one medical facility to another a patient who is receiving intravenous therapy begun at the transferring facility, and where the capability of continuous two-way voice communication is maintained with a physician, approved MICN or MDA located in the sponsor hospital, or when meeting the requirements of Rule .1003 of this Subchapter and upon order of such

physician, MICN or MDA, EMT-Ps may maintain intravenous lines for the following medications:

- (a) IV Antibiotics;
- (b) Whole Blood and Components;
- (c) Heparin Drip;
- (d) Magnesium Sulfate Drip;
- (e) Nitroglycerin Drip;
- (f) Potassium Chloride;
- (g) Urokinase;
- (h) Streptokinase; and
- (i) Tissue Plasminogen Activator.

*History Note: Authority G.S. 143-514;*

*Eff. October 31, 1980;*

*Amended Eff. August 1, 1996; April 1, 1993; October 1, 1991;*

*October 1, 1990; March 1, 1990;*

*Temporary Amendment Eff. July 28, 1997.*

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of July 17, 1997 pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an \* in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

*These rules unless otherwise noted, will become effective on the 31st legislative day of the 1998 Short Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.*

APPROVED RULE CITATION				REGISTER CITATION TO THE NOTICE OF TEXT
10	NCAC	50B	.0202*	11:28 NCR 2120
10	NCAC	50B	.0404	11:28 NCR 2121
10	NCAC	50B	.0409	11:28 NCR 2121
12	NCAC	04E	.0104*	11:22 NCR 1710
12	NCAC	04E	.0401	11:22 NCR 1710
12	NCAC	04E	.0404 - .0405*	11:22 NCR 1710
15A	NCAC	13A	.0101* Amended Eff. 8-1-97	not required, G.S. 150B-21.5
19A	NCAC	02D	.0415	11:26 NCR 1969
24	NCAC	01P	.0101 - .0102	11:28 NCR 2132
24	NCAC	01P	.0201 - .0202*	11:28 NCR 2132
24	NCAC	01P	.0203	11:28 NCR 2132

## **TITLE 10 - DEPARTMENT OF HUMAN RESOURCES**

### **CHAPTER 50 - MEDICAL ASSISTANCE**

#### **SUBCHAPTER 50B - ELIGIBILITY DETERMINATION**

#### **SECTION .0200 - APPLICATION PROCESS**

##### **.0202 INITIAL INTERVIEW**

(a) The county department of social services shall conduct an interview with the client or his representative. The client may have any person or persons of his choice participate in the interview. During the interview, the Income Maintenance Caseworker shall explain the application process, the client's rights and responsibilities, the programs of public assistance and the eligibility conditions.

(b) The applicant shall be advised of his right to apply in more than one program category for which he qualifies and the advantages and disadvantages of the choices shall be explained.

(c) The client shall be informed of the following:

- (1) That information he provides shall be checked for accuracy. The client shall be told what information he shall provide, and what sources the agency shall contact to check the information. Collateral sources of information shall include knowledgeable individuals, business organizations, public records, and documentary evidence. If the client does not wish necessary collateral contacts to be made, he can withdraw his application. If he denies permission to

contact necessary collaterals and all alternative sources of verification, the application shall be denied due to failure to cooperate in establishing eligibility.

(2) The client has the right to:

- (A) Receive assistance if found eligible;
- (B) Be protected against discrimination on the grounds of race, creed, or national origin by Title VI of the Civil Rights Act of 1964. He may appeal such discrimination;
- (C) If eligible for Medicaid and Medicare Part B, have the monthly premium paid in his behalf under an agreement between the state and SSA;
- (D) Have any information given to the agency kept in confidence;
- (E) Appeal, if he believes the agency's action to deny, change, or terminate assistance is incorrect, or his request is not acted on with reasonable promptness;
- (F) Reapply at any time, if found ineligible;
- (G) Withdraw from the program at any time;
- (H) Request the agency's help in obtaining third party information which he is responsible to provide;
- (I) Be informed of all alternative sources of verification for the information he is responsible to provide.

(3) The client shall be responsible for the following:

- (A) Provide the county department, state and federal officials, the necessary sources from which to locate and obtain information needed to determine eligibility;
- (B) Report to the county department of social services any change in situation that may affect eligibility within 10 calendar days after it happens. The meaning of fraud shall be explained. The applicant shall be informed that he may be suspected of fraud if he fails to report a change in situation and that in such situations, he may have to repay assistance received in error and that he may also be tried by the courts for fraud;
- (C) Inform the county department of social services of any persons or organization against whom he has a right to recovery. When he accepts medical assistance, the applicant assigns his rights to third party insurance benefits to the state. He shall be informed that it is a misdemeanor to fail to disclose the identity of any person or organization against whom he has a right to recovery;
- (D) Immediately report to the county department the receipt of an I.D. card which he knows to be erroneous. If he does not report such and uses the I.D. card, he may be required to repay any medical expenses paid in error.

criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information.

- (2) "Administrative Message" means messages that may be used by DCI terminal operators to exchange official information of an administrative nature between in-state law enforcement/criminal justice agencies and out-of-state agencies by means of NLETS.
- (3) "Authorized Requestor" means any person who is authorized and approved to receive state and national criminal history data by virtue of being:
  - (a) a member of an approved law enforcement/criminal justice agency pursuant to Rule .0201 of this Subchapter; or
  - (b) any DCI or NCIC authorized non-criminal justice agency pursuant to local ordinance of a state or federal law.
- (4) "Automated Fingerprint Identification System (AFIS)" means a computer based system for reading, encoding, matching, storage and retrieval of fingerprint minutiae and images.
- (5) "CCH" means computerized criminal history.
- (6) "Convicted" or "conviction" means for purposes of DCI operator certification, the entry of:
  - (a) a plea of guilty;
  - (b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established, and recognized adjudicating body, tribunal, or official, either civilian or military; or
  - (c) a plea of no contest, nolo contendere, or the equivalent.

*History Note:* Authority G.S. 108A-25(b); 108A-57; 42 C.F.R. 435.908; *Alexander v. Flaherty*, U.S.D.C., W.D.N.C., File No. C-C-74-183, Consent Order Filed 15 December 1989; *Alexander v. Flaherty* Consent Order filed February 14, 1992; Eff. September 1, 1984; Amended Eff. April 1, 1993; August 1, 1990; March 1, 1986; Temporary Amendment Eff. August 22, 1996; Amended Eff. August 1, 1998.

*History Note:* Authority G.S. 114-10; 114-10.1; Eff. November 1, 1991; Amended Eff. August 1, 1998; October 1, 1995; October 1, 1994.

## TITLE 12 - DEPARTMENT OF JUSTICE

### CHAPTER 4 - DIVISION OF CRIMINAL INFORMATION

#### SUBCHAPTER 4E - ORGANIZATIONAL RULES AND FUNCTIONS

#### SECTION .0100 - GENERAL PROVISIONS

##### .0104 DEFINITIONS

The following definitions shall apply throughout Chapter 4 of this Title:

- (1) "Administration of Criminal Justice" means the performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, and correctional supervision or rehabilitation of accused

#### SECTION .0400 - OPERATION OF DCI TERMINAL

##### .0404 PERIOD OF SUSPENSION

A conviction of a felony shall render an applicant or certified DCI operator permanently ineligible to hold such certification. A conviction of a misdemeanor involving fraud, misrepresentation, or deceit shall render an applicant ineligible to become certified as a DCI terminal operator when such conviction is within 10 years of the operator's date of request for DCI certification. Operators convicted of such a misdemeanor while holding certification shall be ineligible to maintain such certification for a period of 10 years following such conviction. An applicant or certified DCI terminal operator shall be permanently ineligible to hold such certification upon their conviction of three or more misdemeanors involving fraud, misrepresentation, or deceit regardless of the date of conviction.

*History Note: Authority G.S. 114-10; 114-10.1;  
Eff. August 1, 1998.*

#### **.0405 MINIMUM STANDARDS FOR DCI TERMINAL OPERATORS**

(a) Prior to receiving certification as a DCI operator, and as a condition for maintaining certification as a DCI operator, such applicant or operator shall be a citizen of the United States.

(b) The applicant or certified operator shall be at least 18 years of age.

(c) Consistent with Rule .0401 and .0404 of this Section, no applicant for certification as a DCI operator shall be eligible for certification while the applicant is subject to pending or outstanding criminal charges which, if adjudicated, would disqualify the applicant.

*History Note: Authority G.S. 114-10; 114-10.1;  
Eff. August 1, 1998.*

### **TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

#### **CHAPTER 13 - SOLID WASTE MANAGEMENT**

#### **SUBCHAPTER 13A - HAZARDOUS WASTE MANAGEMENT**

#### **SECTION .0100 - HAZARDOUS WASTE**

##### **.0101 GENERAL**

(a) The Hazardous Waste Section of the Division of Waste Management shall administer the hazardous waste management program for the State of North Carolina.

(b) In applying the federal requirements incorporated by reference throughout this Subchapter, the following substitutions or exceptions shall apply:

- (1) "Department of Environment, Health, and Natural Resources" shall be substituted for "Environmental Protection Agency" except in 40 CFR 262.51 through 262.54, 262.56, 262.57 where references to the Environmental Protection Agency shall remain without substitution;
- (2) "Secretary of the Department of Environment, Health, and Natural Resources" shall be substituted for "Administrator," "Regional Administrator" and "Director" except for 40 CFR 262.55 through 262.57, 264.12(a), 268.5, 268.6, 268.42(b) and 268.44 where the references to the Administrator, Regional Administrator, and Director shall remain without substitution; and
- (3) An "annual report" shall be required for all hazardous waste generators, treaters, storers, and disposers rather than a "biennial report".

(c) In the event that there are inconsistencies or duplications in the requirements of those Federal rules incorporated by

reference throughout this Subchapter and the State rules set out in this Subchapter, the provisions incorporated by reference shall prevail except where the State rules are more stringent.

(d) 40 CFR 260.1 through 260.3 (Subpart A), "General," have been incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 260.11, "References", has been incorporated by reference including subsequent amendments and editions.

(f) Copies of all materials in this Subchapter may be inspected or obtained as follows:

- (1) Persons interested in receiving rule-making notices concerning the North Carolina Hazardous Waste Management Rules must submit a written request to the Hazardous Waste Section, P.O. Box 29603, Raleigh, N.C. 27611-9603. A check in the amount of fifteen dollars (\$15.00) made payable to The Hazardous Waste Section must be enclosed with each request. Upon receipt of each request, individuals will be placed on a mailing list to receive notices for one year.
- (2) Material incorporated by reference in the Federal Register may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at a cost of four hundred and fifteen dollars (\$415.00) per year. Federal Register materials are codified once a year in the Code of Federal Regulations and may be obtained at the above address for a cost of: 40 CFR 1-51 thirty one dollars (\$31.00), 40 CFR 260-299 thirty six dollars (\$36.00) and 40 CFR 100-149 thirty four dollars (\$34.00), total one hundred and one dollars (\$101.00).
- (3) The North Carolina Hazardous Waste Management Rules, including the incorporated by reference materials, may be obtained from the Hazardous Waste Section at a cost of sixteen dollars (\$16.00).
- (4) All material is available for inspection at the Department of Environment, Health, and Natural Resources, Hazardous Waste Section, 401 Oberlin Road, Raleigh, N.C.

*History Note: Authority G.S. 130A-294(c); 150B-21.6;  
Eff. September 1, 1979;  
Amended Eff. June 1, 1989; June 1, 1988; August 1, 1987;  
May 1, 1987;  
Transferred and Recodified from 10 NCAC 10F .0001 Eff. April 4, 1990;  
Amended Eff. October 1, 1993; April 1, 1993; October 1, 1992; December 1, 1991;  
Recodified from 15A NCAC 13A .0001 Eff. December 20, 1996;  
Amended Eff. August 1, 1997.*

### **TITLE 24 - INDEPENDENT AGENCIES**

#### **CHAPTER 1 - N.C. HOUSING FINANCE AGENCY**

SUBCHAPTER 1P - FIRE PROTECTION FUND

SECTION .0200 - ADMINISTRATION

**.0201 APPLICATION PROCEDURES**

The North Carolina Housing Finance Agency shall publish a request for proposals in at least five major newspapers and other forms of public notice shall be used to solicit applications from eligible borrowers.

*History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.13; Temporary Adoption Eff. October 1, 1996; Eff. August 1, 1998.*

**.0202 SELECTION PROCEDURE**

Applications for financial assistance shall be evaluated and selected using the following criteria in order to improve safety for the greatest number of vulnerable residents:

- (1) Financial need; and
- (2) Percentage of nonambulatory and disabled residents; and
- (3) Estimated economic life of the facility; and
- (4) Reliability of current fire protection systems and services; and
- (5) Degree to which proposed costs are below the program maximums per square foot; and
- (6) Receipt by the facility of any negative administrative action taken by the North Carolina Division of Facility Services or the United States Health Care Financing Administration that would cause revocation of licensure or, in the event that the borrower fails to make timely payments.

*History Note: Authority G.S. 122A-5; 122A-5.1; 122A-5.13; Temporary Adoption Eff. October 1, 1996; Eff. August 1, 1998.*



*This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, August 21, 1997, 10:00 a.m., at 1307 Glenwood Ave., Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners by Monday, August 18, 1997, at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.*

**RULES REVIEW COMMISSION MEMBERS**

**Appointed by Senate**

Philip O. Redwine - Chairman  
 Vernice B. Howard  
 Teresa L. Smallwood  
 Charles H. Henry

**Appointed by House**

Bill Graham - Vice Chairman  
 James Mallory, III  
 Paul Powell  
 Anita White

**RULES REVIEW COMMISSION MEETING DATES**

August 21, 1997  
 September 18, 1997

October 16, 1997  
 November 20, 1997

**MEETING DATE: AUGUST 21, 1997**

**LOG OF FILINGS**

**RULES SUBMITTED: JUNE 20, 1997 THROUGH JULY 20, 1997**

AGENCY/DIVISION	RULE NAME	RULE	ACTION
<b>COMMERCE/CREDIT UNION DIVISION</b>			
	Loans to Credit Union Officials	4 NCAC 6C .0205	Amend
	Business Loans	4 NCAC 6C .0407	Amend
	Loan Limitations	4 NCAC 6C .0409	Adopt
<b>DHR/SOCIAL SERVICES COMMISSION</b>			
	Basic Eligibility Criteria	10 NCAC 35E .0101	Amend
	Maximum Income Levels	10 NCAC 35E .0105	Amend
	Without Regard to Income Status	10 NCAC 35E .0106	Amend
	Health Support Services	10 NCAC 35E .0308	Amend
	Nature and Purpose	10 NCAC 42J .0001	Amend
	Mandated Resources	10 NCAC 42J .0004	Amend
	Funding For Mandated Resources	10 NCAC 42J .0005	Amend
<b>DEHNR/MARINE FISHERIES COMMISSION</b>			
	Flounder	15A NCAC 3M .0503	Amend
	Snapper-Grouper	15A NCAC 3M .0506	Amend
	Recreational Fishing	15A NCAC 3M .0507	Amend
	Scup (Porgy)	15A NCAC 3M .0514	Adopt
	Marking Shellfish Leases	15A NCAC 3O .0204	Amend
<b>DEHNR/COASTAL RESOURCES COMMISSION</b>			
	Use Standards	15A NCAC 7H .0208	Amend
	Approval Procedures	15A NCAC 7H .1202	Amend

# RULES REVIEW COMMISSION

General Conditions	15A NCAC 7H .1204	Amend
Specific Conditions	15A NCAC 7H .1205	Amend
Private Bulkheads	15A NCAC 7K .0203	Amend

## RULES REVIEW OBJECTIONS

### ADMINISTRATION

#### State Construction

1 NCAC 30G .0102 - Policy	RRC Objection	03/20/97
No Response from Agency		04/17/97
Agency Revised Rule	Obj. Removed	05/15/97
1 NCAC 30G .0104 - General Procedures	RRC Objection	03/20/97
No Response from Agency		04/17/97
Agency Revised Rule	Obj. Removed	05/15/97

### AGRICULTURE

2 NCAC 43F .0003 - Standards for Receptacles: Labeling: Etc. (Recodified to .0103)	RRC Objection	05/15/97
Agency Revised Rule	Obj. Removed	06/19/97
2 NCAC 43H .0007 - Special Requirements (Recodified to .0107)	RRC Objection	05/15/97
Agency Revised Rule	Obj. Removed	06/19/97

### ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

#### Environmental Management

15A NCAC 2H .0225 - Conditions for Issuing General Permits	RRC Objection	07/17/97
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#### Marine Fisheries

15A NCAC 3O .0101 - License Agents	RRC Objection	04/17/97
Agency Revised Rule	Obj. Removed	05/15/97

### N.C. HOUSING FINANCE AGENCY

24 NCAC 1P .0103 - Types of Assistance	RRC Objection	07/17/97
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### HUMAN RESOURCES

#### Facility Services

10 NCAC 3R .3033 - Open Heart Surgery Services Need Determinations (Rev. Cat. H)	RRC Objection	01/16/97
	Obj. Cont'd	02/20/97
	Obj. Cont'd	03/20/97
	Obj. Cont'd	06/19/97
	Obj. Cont'd	07/17/97

### JUSTICE

#### Criminal Justice Education & Training Standards Commission

12 NCAC 9B .0102 - Background Investigation	RRC Objection	04/17/97
Agency Revised Rule	Obj. Removed	05/15/97

### TRANSPORTATION

#### Division of Highways

19A NCAC 2B .0164 - Use of Right of Way Consultants	RRC Objection	07/17/97
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*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.*

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge*  
JULIAN MANN, III

*Senior Administrative Law Judge*  
FRED G. MORRISON JR.

**ADMINISTRATIVE LAW JUDGES**

Brenda B. Becton  
Sammie Chess Jr.  
Beecher R. Gray

Meg Scott Phipps  
Robert Roosevelt Reilly Jr.  
Dolores O. Smith

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b>				
Alcoholic Beverage Control Comm. v. Fast Fare, Inc.	96 ABC 0483	Morrison	06/18/97	
Alcoholic Beverage Control Comm. v. Paradise Landing, Inc.	97 ABC 0031	Gray	06/13/97	
Daniel Gary Ledbetter v. Alcoholic Beverage Control Commission	97 ABC 0443	Gray	07/08/97	
<b>CORRECTION</b>				
David M. Boone v. Correction, Div. of Prison Admin. Remedy Procedure	97 DOC 0534	Morrison	06/16/97	
<b>CRIME CONTROL AND PUBLIC SAFETY</b>				
Della Sherrod v. Crime Victims Compensation Commission	96 CPS 0300	Chess	07/18/97	
Rodney P. Hodge v. Crime Victims Compensation Commission	97 CPS 0449	Reilly	07/01/97	
Billy Steen v. Crime Victims Compensation Commission	97 CPS 0472	Morrison	07/23/97	
<b>ENVIRONMENT, HEALTH, AND NATURAL RESOURCES</b>				
Linda Collie v. Lenoir County Health Department	96 EHR 0264	Becton	07/16/97	
Leroy Anderson v. County of Moore Department of Health	96 EHR 1969	Morrison	07/15/97	12:03 NCR 223
John Ronald Taylor v. Environment, Health, & Natural Resources	97 EHR 0275	Reilly	06/09/97	
Rick Parker v. Pitt County Health Dept./Mr. Ernie Nichols	97 EHR 0470	Phipps	07/01/97	
<b>Maternal and Child Health</b>				
Evan's Mini Mart v. EHNR, Maternal & Child Health, Nutrition Svcs Sec.	97 EHR 0599	Phipps	07/14/97	
<b>Solid Waste Management</b>				
Loie J. Priddy v. Division of Solid Waste Management, EHNR	96 EHR 1838	Morrison	06/20/97	12:02 NCR 103
<b>Water Quality</b>				
Castle Hayne Steering Committee v. EHNR, Division of Water Quality and New Hanover County Water and Sewer District	96 EHR 1731	Mann	06/30/97	

# CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>HUMAN RESOURCES</b>				
Cindy G. Geho v. Office of Administrative Hearings, R. Marcus Lodge	97 DHR 0286	Chess	07/23/97	
Ocelee Gibson v. Department of Human Resources	97 DHR 0658	Reilly	07/22/97	
<i>Division of Facility Services</i>				
Ava McKinney v. DHR, Division of Facility Services	96 DHR 2061	Chess	07/08/97	
Mercy Egbuleonu v. DHR, Facility Svcs, Health Care Personnel Reg. Sec.	97 DHR 0172	Becton	07/16/97	
Kizzie Cooper v. DHR, Facility Svcs, Health Care Personnel Registry Sec.	97 DHR 0459	Phipps	06/09/97	
Maggie J. Barnhill v. DHR, Facility Svcs, Health Care Personnel Reg. Sec.	97 DHR 0465	Gray	07/30/97	
Emma Faison v. DHR, Division of Facility Services	97 DHR 0471	Gray	07/15/97	
Patricia Addison v. DHR, Facility Svcs, Health Care Personnel Reg. Sec.	97 DHR 0521	Mann	07/25/97	
Claudia K. Thomerson v. DHR, Facility Svcs, Health Care Persnl Reg. Sec.	97 DHR 0551	Chess	07/15/97	
Michelle R. Griffin v. DHR, Facility Svcs, Health Care Personnel Reg. Sec.	97 DHR 0559	Gray	07/30/97	
<i>Certificate of Need Section</i>				
Carolina Imaging, Inc./Fayetteville v. DHR, Facility Svcs, Cert/Need Sec. and Cumberland Cty Hospital System, Inc., d/b/a Cape Fear Valley Med. Ctr.	96 DHR 1570	Phipps	06/24/97	12:02 NCR 95
<i>Group Licensure Section</i>				
Jeffreys Family Care #2 v. DHR, Facility Svcs. Group Licensure Section	97 DHR 0259	Mann	06/17/97	
<i>Division of Social Services</i>				
<i>Child Support Enforcement Section</i>				
Steven Van Linker v. Department of Human Resources	96 CRA 1250*2	Becton	07/11/97	
David Lee Chamblee Jr. v. Department of Human Resources	96 CRA 1281	Morrison	06/16/97	
Michael T. Swann v. Department of Human Resources	96 CRA 1326	Chess	06/04/97	
Ted Wayne Lamb v. Department of Human Resources	96 CRA 1359	Gray	07/10/97	
David N. Jarrett v. Department of Human Resources	96 CRA 1438	Morrison	07/10/97	
Tollie Woods v. Department of Human Resources	96 CRA 1348**	Morrison	08/04/97	
Michael A. Isom v. Department of Human Resources	96 CRA 1450	Becton	07/11/97	
Justin M. Woazeah, Sr. v. Department of Human Resources	96 CRA 1452*9	Chess	07/22/97	
Calvin F. Mizelle v. Department of Human Resources	96 CRA 1476	Chess	07/07/97	
Ander L. Garfield v. Department of Human Resources	96 CRA 1479*3	Morrison	07/15/97	
David Fraizer v. Department of Human Resources	96 CRA 1519*10	Chess	07/18/97	
David Fraizer v. Department of Human Resources	96 CRA 1520*10	Chess	07/18/97	
David Hobson v. Department of Human Resources	96 CRA 1522*11	Phipps	07/24/97	
David Scott Jordan v. Department of Human Resources	96 CRA 1673	Reilly	07/18/97	
Lee R. Jones v. Department of Human Resources	96 CRA 1720*4	Phipps	07/10/97	
Cecil Hall v. Department of Human Resources	96 CRA 1749*5	Mann	07/10/97	
Neil G. McGilberry v. Department of Human Resources	96 CRA 1767*6	Becton	07/15/97	
Dennis Larson v. Department of Human Resources	96 CRA 1793	Chess	06/17/97	
Eric L. Harrington v. Department of Human Resources	96 CRA 1794	Mann	07/19/97	
Scott M. Rodriguez v. Department of Human Resources	96 CRA 1818*1	Gray	06/25/97	
James Withers v. Department of Human Resources	96 CRA 1820	Reilly	07/24/97	
Ronald L. Hadley v. Department of Human Resources	96 CRA 1892	Reilly	07/18/97	
Garland M. Jessup v. Guilford County Child Support Enforcement	96 CRA 1898	Becton	07/11/97	
Roger G. Foster v. Department of Human Resources	97 CRA 0043	Phipps	06/19/97	
Charlie T. Smith v. Department of Human Resources	97 CRA 0280	Reilly	06/16/97	
Joseph Michael Eubanks v. Department of Human Resources	97 CRA 0477	Reilly	07/18/97	
Charles F. King v. Department of Human Resources	97 CRA 0720	Reilly	07/30/97	
Steven Van Linker v. Department of Human Resources	96 CSE 1249*2	Becton	07/11/97	
Barry Tukes Sr. v. C.S.E.	96 CSE 1277	Mann	07/01/97	
Willie L. Berry v. Department of Human Resources	96 CSE 1319	Gray	06/25/97	
Tony Orlando Steele v. Department of Human Resources	96 CSE 1337	Mann	06/30/97	
Carl Locklear v. Department of Human Resources	96 CSE 1338	Mann	07/07/97	
Tollie Woods v. Department of Human Resources	96 CSE 1340*5	Morrison	08/04/97	
Charles L. Raynor v. Department of Human Resources	96 CSE 1382	Becton	07/11/97	
Robert Walker v. Intercept Tax Refunds	96 CSE 1384	Morrison	07/24/97	
Justin M. Woazeah, Sr. v. Department of Human Resources	96 CSE 1453*9	Chess	07/22/97	
William A. Underhill v. Department of Human Resources	96 CSE 1455	Mann	07/18/97	
Almiron J. Deis v. Department of Human Resources	96 CSE 1456	Gray	06/25/97	
Ander L. Garfield v. Department of Human Resources	96 CSE 1480*3	Morrison	07/15/97	
David Hobson v. Department of Human Resources	96 CSE 1521*11	Phipps	07/24/97	
Gregory D. Simpson v. Department of Human Resources	96 CSE 1527	Reilly	06/25/97	
Donald Ray Archie v. Department of Human Resources	96 CSE 1558	Becton	07/11/97	
John W. Liverman v. Department of Human Resources	96 CSE 1568	Becton	07/11/97	

\* Consolidated Cases.

# CONTESTED CASE DECISIONS

AGENCY	CASE NUMBER	ALJ	DATE OF DECISION	PUBLISHED DECISION REGISTER CITATION
Vincent L. Martin v. Department of Human Resources	96 CSE 1574	Gray	08/04/97	
David Fraizer v. Department of Human Resources	96 CSE 1610* <sup>10</sup>	Chess	07/18/97	
Golet Holloway, Jr. v. Department of Human Resources	96 CSE 1611	Becton	07/11/97	
Jeffrey Pierce v. Department of Human Resources	96 CSE 1613	Mann	06/30/97	
William C. Rivera v. Department of Human Resources	96 CSE 1622	Mann	06/18/97	
Lenora McCracken v. Department of Human Resources	96 CSE 1644	Mann	06/30/97	
Lee R. Jones v. Department of Human Resources	96 CSE 1719**	Phipps	07/10/97	
Cecil Hall v. Department of Human Resources	96 CSE 1750* <sup>5</sup>	Mann	07/10/97	
Neil G. McGilberry v. Department of Human Resources	96 CSE 1766* <sup>6</sup>	Becton	07/15/97	
Devin J. Bello v. Department of Human Resources	96 CSE 1774	Phipps	07/16/97	
Scott M. Rodriguez v. Department of Human Resources	96 CSE 1817* <sup>1</sup>	Gray	06/25/97	
Sean Heitz v. Department of Human Resources	96 CSE 1909	Chess	07/22/97	
Nathan S. Lockhart Sr. v. Department of Human Resources	96 CSE 1910	Phipps	07/16/97	
Scott James Peirill v. Department of Human Resources	96 CSE 1914	Morrison	07/30/97	
Daniel E. Carpenter v. Department of Human Resources	96 CSE 1917* <sup>12</sup>	Phipps	07/25/97	
Daryl E. Shankle v. Child Support Enforcement Agency	96 CSE 1977	Becton	07/11/97	
Jeffrey William Strama v. Department of Human Resources	96 CSE 2043	Becton	07/11/97	
Tommy L. Hines Sr. v. Forsyth County Child Support Enforcement	97 CSE 0015	Reilly	07/18/97	
Irvan Jemal Fontenot v. Department of Human Resources	97 CSE 0223	Becton	07/11/97	
Pearlie Blakney v. Department of Human Resources	97 CSE 0254	Phipps	07/24/97	
Leroy Grooms v. Department of Human Resources	97 CSE 0258* <sup>7</sup>	Becton	07/18/97	
Sarah Chambers v. Department of Human Resources	97 CSE 0278	Morrison	06/16/97	
Leroy Grooms v. Department of Human Resources	97 CSE 0297* <sup>7</sup>	Becton	07/18/97	
William A. Rogers v. Department of Human Resources	97 CSE 0410	Gray	06/25/97	
James G. Davis v. Department of Human Resources	97 CSE 0448	Gray	07/28/97	
Randy Gavurnik v. Department of Human Resources	97 CSE 0454	Morrison	08/04/97	
Curtis Leon Mock v. Department of Human Resources	97 CSE 0490	Mann	06/17/97	
Daniel E. Carpenter v. Department of Human Resources	97 CSE 0501* <sup>12</sup>	Phipps	07/25/97	
Guy R. Auger v. Brunswick County Child Support Enforcement	97 CSE 0600	Morrison	07/18/97	
David F. Norman v. Department of Human Resources	97 CSE 0672	Gray	07/28/97	
David Hobson v. Department of Human Resources	97 CSE 1747* <sup>11</sup>	Phipps	07/24/97	
Linda Wade-Hargrove v. Department of Human Resources	97 DCS 0365	Becton	07/11/97	
Regina C. Sullivan v. Department of Human Resources	97 DCS 0482	Becton	07/18/97	
<b>INSURANCE</b>				
Joseph J. Peacock v. Department of Insurance	96 INS 0433	Becton	07/25/97	12:04 NCR 327
<b>JUSTICE</b>				
Imran Ramnarine v. Department of Justice, Company Police Program	97 DOJ 2071	Becton	06/11/97	
<b>Education and Training Standards Division</b>				
Charles Thomas Ohnmacht, Jr. v. Criml. Justice Ed./Training Stds. Comm.	96 DOJ 0353	Phipps	06/13/97	
James Haywood Mathews, Jr. v. Criml. Justice Ed./Training Stds. Comm.	96 DOJ 1957	Reilly	07/31/97	
Christopher Lee v. Criminal Justice Ed. & Training Standards Comm.	97 DOJ 0076	Morrison	06/19/97	
Frank Arlander Hearne v. Criml. Justice Ed. & Training Stds. Comm.	97 DOJ 0137	Reilly	06/10/97	
Audrey McDonald Rodgers v. Sheriffs' Ed. & Training Stds. Comm.	97 DOJ 0308	Reilly	07/31/97	
<b>Private Protective Services Board</b>				
Private Protective Services Board v. Phillip L. Hanson	96 DOJ 0795	Smith	06/05/97	
Ronald Anthony Bobeck v. Private Protective Services Board	97 DOJ 0476	Morrison	06/20/97	
<b>PUBLIC INSTRUCTION</b>				
Karen L. Holgersen v. Department of Public Instruction	96 EDC 0808	Smith	05/27/97	
Meridith Kirkpatrick, by her parent, Susan Kirkpatrick and Meridith Kirkpatrick, Individually v. Lenoir County Board of Education	96 EDC 0979	Overby	06/02/97	
Brenda Joyce Brooks Lovely v. State Board of Education	97 EDC 0089	Morrison	08/01/97	
<b>STATE PERSONNEL</b>				
<b>Brunswick Community College</b>				
Dr. Donald W. Skinner v. Brunswick Community College	97 OSP 0310	Phipps	06/12/97	
<b>Correction</b>				
William Hershel Bradley v. Franklin Freeman, Supt. Mark Hughes, Grant Spicer, Asst. Supt. Wade Hatley, et al, Department of Correction	96 OSP 1604	Phipps	06/19/97	
Dennis Harrell v. Department of Correction	96 OSP 2039	Chess	06/18/97	
Morton Floyd v. New Hanover Department of Correction	97 OSP 0152	Gray	06/13/97	
<b>Employment Security Commission</b>				
Broxie J. Nelson v. Employment Security Commission	96 OSP 0378	Becton	07/10/97	
Mary H. Ranson v. Employment Security Commission	97 OSP 0387	Mann	07/24/97	

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**CONTESTED CASE DECISIONS**

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b>Human Resources</b>				
Glen Sutton v. Cumberland County Department of Social Services	96 OSP 1296	Gray	07/17/97	
Clifton Dean Hill v. Department of Human Resources	97 OSP 0007	Phipps	06/20/97	12:02 NCR 107
<b>Public Instruction</b>				
Frances Phillips Melott v. Department of Public Instruction	95 OSP 0907	Trawick	06/09/97	
<b>University of North Carolina</b>				
Diane Riggsbee-Raynor v UNC at Chapel Hill	96 OSP 0326	Chess	06/04/97	12:01 NCR 39
<b>TRANSPORTATION</b>				
Audrey W. Harris v. Transportation, Manson/Wheat Contr., & Wake Elec.	97 DOT 0566	Gray	07/28/96	

**y.**

**PROPOSAL FOR DECISION**  
**N.C. Gen. Stat. §150B-40(e)**

**N.C. DEPARTMENT OF INSURANCE,**  
**Respondent.**

This matter was commenced by a request filed with the Director of the Office of Administrative Hearings for the assignment of an administrative law judge pursuant to the provisions of N.C. Gen. Stat. §150B-40(e). The administrative hearing was held before Brenda B. Becton, Administrative Law Judge, in Raleigh, North Carolina on June 24, 1997.

For Petitioner: **THOMAS AND FARRIS, Attorneys at Law, Wilson, North Carolina; Allen G. Thomas and Eliot F. Smith**  
appearing.

For Respondent: Jo Ann Weaver Hull, Assistant Attorney General, N.C. Department of Justice, Raleigh, North Carolina.

Whether the Petitioner meets all of the requirements of N.C. Gen. Stat. §§58-33-30, 58-33-45, and other pertinent sections, for licensing as an insurance agent, so that he should have his license reinstated.

N.C. GEN. STAT. §58-33-30  
N.C. GEN. STAT. §58-33-45

The following exhibits offered by the Petitioner were received in evidence:

- P1. Criminal Record Check in Sampson County.
- P2. Criminal Record Check in Johnston County.
- P3. March 25, 1992 - Termination of Agent Appointment.
- P4. November 27, 1992 - JUDGMENT (Sampson County) - Petitioner guilty to 2 cts misd. larceny - 2 yrs/susp 3; due \$185.00; 50 hrs c/s; surrender ins. License 12 mos.
- P5. December 3, 1992 - ORDER (Sampson County) - giving Petitioner 11 days (until Dec. 18) to surrender insurance license
- P6. April 20, 1993 - JUDGMENT (Johnston County) - Petitioner guilty of 1 ct. misd. larceny - 2 yrs/susp 5; due \$1,926.80; 24 hrs c/s; not sell ins. during suspension of sentence
- P7. May 14, 1993 - Letter from Shirley Wms. (Dept. of Ins.) to Petitioner - notice of revocation of insurance license

- P8. January 11, 1995 - Letter from Joe Maciejewski from Dept. of Corrections stating that Petitioner's probation was terminated after one year and all obligations with State completed
- P9. February 8, 1995 - ORDER (Johnston County) - modifying judgment to permit Petitioner to sell insurance as long as so licensed
- P10. April 3, 1995 - Letter from Petitioner to Agent Services - requesting license back
- P11. May 22, 1995 - Letter from Shirley Williams (Dept. of Ins.) to Petitioner - "due to nature of conviction" declines request for license; however, can complete education requirements and request hearing
- P12. August 3, 1995 - Letter from Petitioner to Williams - complete education requirements and enclosed certificate; requested license
- P13. August 15, 1995 - Letter from Williams to Petitioner - enclosed copy of 5/22/95 letter explaining recourse
- P14. November 7, 1995 - Letter from Petitioner to Williams - requesting formal hearing
- P15. January 11, 1996 - Letter from Petitioner to Williams and copied to James E. Long - requesting hearing
- P16. January 25, 1996 - Letter from Williams to Petitioner - no documentation that N.C. state exam passed; once taken then formal denial
- P17. March 15, 1996 - Letter from Petitioner to Williams and copied to James E. Long - requesting hearing
- P18. April 10, 1996 - Letter from Jo Ann Weaver Hull (A.G.'s office) to Julian Mann (Director and Chief ALJ) - requesting designation of an ALJ to preside over Petitioner's case
- P19. September 25, 1990 - Agent's Contract between Petitioner and Standard Life and Accident Insurance Company - re: commissions and fees
- P20. Petitioner's 1991 FORM 1099 - \$81,133.06
- P21. Ten Certificates of Completion for Insurance Courses - Dated 3/22/91; 10/18/91; 10/27/92; 10/28/92; 8/25/93; 12/17/94; 12/19/94 (2); 12/21/95; 12/22/95
- P22. January 28, 1992 - Letter from Alice Cantrell (Marketing Service Manager at Standard Life) to Petitioner - qualification for President's Club for seventh consecutive time
- P23. Letter from Dewey B. Sheffield regarding Petitioner's character
- P24. Letter from D.L. Blackmon regarding Petitioner's character
- P25. Letter from Donna S. Peacock regarding Petitioner's character
- P26. Copies of Certified Mail Certificates
- P27. Witness List
- P28. Certificate of Honorable Discharge from the United States Navy
- P29. Certified True Copy of original criminal record check (Wake County)

The following exhibits offered by the Respondent were received in evidence:

- R1. Letter from Rick Johnson to Clerk of Superior Court of Sampson County Re: Surrender of Mr. Peacock's Insurance License.



- R2. Judgment from Sampson County for conviction of two counts of larceny.
- R3. Judgment from Johnston County for conviction of one count of larceny.
- R4. Agent licensing history.
- R5. May 14, 1996 letter from Shirley Williams to Mr. Peacock revoking insurance licenses.
- R6. April 3, 1995 memo from Peacock to Agent Services requesting a second chance.
- R7. May 22, 1995 letter from Shirley Williams to Mr. Peacock denying reissue of insurance license.
- R8. August 3, 1995 letter from Mr. Peacock to Ms. Williams with Certificate of Education and requesting reissue of license.
- R9. August 15, 1995 letter from Shirley Williams to Mr. Peacock.
- R10. November 7, 1995 letter from Mr. Peacock to Ms. Williams requesting a formal hearing.
- R11. January 11, 1996 letter from Mr. Peacock to Ms. Williams requesting a hearing.
- R12. January 25, 1996 letter from Ms. Williams to Mr. Peacock explaining lack of documentation on state exam.
- R13. March 15, 1996 letter from Mr. Peacock to Ms. Williams requesting a hearing.
- R14. April 21, 1997 letter to Joseph J. Peacock from Shirley Williams.

Based upon the official documents in the file, sworn testimony of the witnesses, and other competent and admissible evidence, the undersigned makes the following:

**FINDINGS OF FACT**

**Stipulated Facts**

- 1. "Both parties are properly before this Administrative Law Judge, in that jurisdiction and venue are proper, both parties received notice of hearing, and Petitioner received the letters denying re-issue of his insurance license."
- 2. "The North Carolina Department of Insurance has the authority granted under Chapter 58 of the North Carolina General Statutes to license insurance agents and to deny, revoke or suspend such licenses."
- 3. "Petitioner was previously licensed to sell insurance by the North Carolina Department of Insurance."
- 4. "Petitioner was convicted in Sampson County of two counts of misdemeanor larceny on November 3, 1992, and was ordered by the Court to surrender his insurance license for twelve months."
- 5. "Petitioner was convicted in Johnson [sic] County of larceny on April 20, 1993, and was ordered by the Court not to sell insurance or obtain a license."
- 6. "On May 14, 1993, the Petitioner's licenses to sell insurance were revoked by the Department of Insurance."
- 7. "On February 8, 1995, the Petitioner obtained an order in Johnson [sic] County modifying that portion of the suspended sentence prohibiting the defendant from selling insurance or obtaining a license. It was ordered that the Petitioner may sell insurance so long as he is licensed by the State of North Carolina and may obtain a license to sell insurance if otherwise eligible."
- 8. "The Petitioner applied for licensing as a Life and Health agent."

9. "The Petitioner has now successfully completed all required education requirements and has successfully completed the licensing examination."

**Adjudicated Facts**

10. The Petitioner was born on July 22, 1945. He served in the United States Navy. He is a Vietnam veteran and received an honorable discharge.
11. The Petitioner became a licensed insurance agent in August 1969.
12. In October 1969, the Petitioner began working as an insurance agent with Combined Insurance Company of America. After five months on the job, the Petitioner was promoted to a manager position. A year and a half later, the Petitioner became Combined Insurance Company's first district manager in North Carolina.
13. In 1979, the Petitioner resigned from Combined Insurance Company to become the Assistant Agency Director for Investors Consolidated Insurance Company's Accident and Health Division.
14. During 1981 and 1982, the Petitioner was in business for himself as an independent agent.
15. In 1984, the Petitioner contracted with Standard Life and Accident Insurance Company as a Managing General Agent. He was in charge of thirty to forty agents and general agents. The Petitioner and the agents he supervised generated between seven and eight hundred thousand dollars a year in premiums for Standard Life. The Petitioner's first year of commissions and premiums generated an income of approximately six to eight thousand dollars a month. As the Managing General Agent, the Petitioner made Standard Life's President Club seven years in a row. He was always among the company's top ten Managing General Agents.
16. Sometime during 1991, the Petitioner issued two field policies for a husband and wife in Sampson County. The premiums for the two policies were placed in the Petitioner's business account. The Petitioner misplaced the field policies and the premiums were never forwarded to Standard Life. When the clients contacted the Petitioner about why they had not received a refund on their premiums, the Petitioner tried to straighten the matter out. However, the clients' daughter had already made a complaint to Standard Life which referred the matter to the Respondent.
17. The Respondent's investigation of the Petitioner's failure to remit the insurance premiums to Standard Life for the two field policies resulted in the Petitioner being charged with two counts of felonious embezzlement. Following a plea bargain, the Petitioner was convicted of two counts of misdemeanor larceny on November 3, 1992, in Sampson County.
18. As part of the Petitioner's plea bargain, the Petitioner was required to surrender his license to sell insurance for a period of 12 months to the Respondent on December 18, 1992.
19. The Petitioner was charged with another count of embezzlement in Johnston County in June 1992. This incident arose out of the Petitioner's supervision of another insurance agent, Jim Seay. Mr. Seay misplaced the applications for insurance and sent the premiums to a different insurance company than the one the application was originally for. The Petitioner did not keep the premiums himself and insurance policies were issued to client, although not by the insurance company named on the lost applications.
20. The Petitioner pled guilty to misdemeanor larceny and received a two year suspended sentence in April 1993. As part of his sentence, the Petitioner was ordered not to sell insurance or to obtain a license to sell insurance.
21. The Petitioner does not have a conviction for misdemeanor assault by pointing a gun in Wake County on June 24, 1987.
22. At the time the Petitioner entered his guilty pleas, he did not know that his pleas would result in termination of his right to collect commissions on renewals of all policies he had previously sold.
23. The Petitioner did not convert any premiums to his personal use.
24. The two instances of mishandling insurance premiums are the only two incidents that have occurred in the Petitioner's twenty-two plus years as a licensed insurance agent.

25. Dewey B. Sheffield has been a licensed insurance agent since 1965. He has known the Petitioner for approximately thirty-five years. Mr. Sheffield testified that the Petitioner has a fine reputation for integrity, trustworthiness, and honesty in both his community and in the insurance profession. Mr. Sheffield also testified that he has hired, trained, and managed hundreds of insurance salespeople and he would not hesitate to hire the Petitioner.
26. In addition to having received a ribbon for his service in the military during the Vietnam war, the Petitioner is active in the American Legion; he is a former member of the Veterans of Foreign Wars; and he coaches little league in his community.
27. The statutes governing the licensing requirements for insurance agents provide that "[a]n applicant for any license . . . must be deemed by the Commissioner to be competent, trustworthy and financially responsible, and must have not willfully violated the insurance laws of this or any other state."
28. Pursuant to N.C. Gen. Stat. §58-33-30(g), an application "may . . . be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. §58-33-45(a)."
29. North Carolina Gen. Stat. §58-33-45(a) provides that:  
  
The Commissioner may suspend, revoke, or refuse to renew any license issued under this Article if . . . he finds as to the licensee any one or more of the following conditions:  
  - ... (3) Violation of, or noncompliance with, any insurance laws, or any lawful rule, or order of the Commissioner or a Commissioner of another state;
  - ... (5) Improperly withholding, misappropriating, or converting to his own use any moneys belonging to policyholders, insurers, beneficiaries or others received in the course of his insurance business;
  - ... (8) Conviction of a misdemeanor involving moral turpitude, or conviction of a felony;
  - ... (10) In the conduct of his affairs under the license, the licensee has used fraudulent, coercive or dishonest practices, or has shown himself to be incompetent, untrustworthy, or financially irresponsible;
  - ....

Based on the foregoing Findings of Fact, the undersigned Administrative Law Judge makes the following:

**CONCLUSIONS OF LAW**

1. The parties are properly before the Office of Administrative Hearings.
2. The Respondent has the authority under N. C. Gen. Stat. §58-33-45(a) to suspend, revoke, or refuse to renew the license of any insurance agent.
3. Under the provisions of the statutes governing insurance, the Petitioner's conviction of misdemeanor larceny subjects him to possible suspension, revocation, or nonrenewal of his insurance agent's license.
4. Although the Respondent has the authority to deny the Petitioner's renewal of his insurance agent's license, the Commissioner is not required to deny the Petitioner's application. The statute says that the Commissioner "may suspend, revoke, or refuse to renew any license. . . ." (Emphasis added). Consequently, the Respondent has some discretion, depending upon the individual circumstances to determine if nonrenewal is appropriate.
5. The evidence indicates that the two incidents that occurred in 1991 are the only blemishes upon the Petitioner's twenty-two plus years as an insurance agent. During those twenty-two plus years, the Petitioner compiled a record of generally outstanding performance. In addition, the Petitioner has established a reputation for honesty and trustworthiness in his community.

6. The evidence does not indicate that the Petitioner willfully violated any laws. Instead, the evidence indicates that the Petitioner needed to put in place a system of checks and balances so that information or policies did not get misplaced without someone being aware that there was a problem. However, considering the volume of insurance business the Petitioner was conducting, it cannot be said that his manner of conducting business indicates that he is incompetent, untrustworthy, or financially irresponsible.
7. The fact that the Petitioner has been convicted of a misdemeanor involving moral turpitude is mitigated by his established reputation in the community and in his profession. It is further mitigated by the facts that the Petitioner did not gain personally from the mistakes that he made, and those two mistakes are the only occurrences in a twenty-two plus years career.
8. There is no evidence that the Petitioner used fraudulent, coercive or dishonest practices in the conduct of his insurance business.

**PROPOSAL FOR DECISION**

The Commissioner of the N.C. Department of Insurance will make the Final Decision in this contested case. Based upon the foregoing findings of fact and conclusions of law, it is hereby proposed that the Commissioner enter a final decision issuing the Petitioner a license as a Life and Health Agent.

**NOTICE**

Before the Commissioner of the N.C. Department of Insurance makes the FINAL DECISION, the Commissioner is required by North Carolina General Statutes §150B-40(e) to give each party an opportunity to file exceptions to this PROPOSAL FOR DECISION, and to present written arguments to those in the agency who will make the final decision.

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency and a copy shall be furnished to the attorney of record. N.C. Gen. Stat. §150B-42(a). It is requested that the agency furnish a copy to the Office of Administrative Hearings.

This the 25<sup>th</sup> day of July, 1997.

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Brenda B. Becton  
Administrative Law Judge

*The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.*

**TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE**

<b>TITLE</b>	<b>DEPARTMENT</b>	<b>LICENSING BOARDS</b>	<b>CHAPTER</b>
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
*21	Occupational Licensing Boards	Mortuary Science	34
22	Administrative Procedures	Nursing	36
23	Community Colleges	Nursing Home Administrators	37
24	Independent Agencies	Occupational Therapists	38
25	State Personnel	Opticians	40
26	Administrative Hearings	Optometry	42
27	NC State Bar	Osteopathic Examination & Reg. (Repealed)	44
		Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Psychology Board	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

**Note:** Title 21 contains the chapters of the various occupational licensing boards.



# CUMULATIVE INDEX

(Updated through August 11, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
This index provides information related to notices, rules and other documents published in the Register. It includes information about rules for which Notice of Rule-Making Proceedings or Notice of Text have been published, rules submitted to the Rules Review Commission and rules codified since the last session of the General Assembly. For assistance contact the Rules Division at 919/733-2678.										
Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. * = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.										
ADMINISTRATIVE HEARINGS										
Rules Division										
26 NCAC 02C	11:19 NCR 1413									
ADMINISTRATION										
State Building Commission										
1 NCAC 30G .0101		11:04 NCR 194	11:19 NCR 1414	*	Approve	03/20/97			11:26 NCR 2004	
1 NCAC 30G .0102		11:04 NCR 194	11:19 NCR 1414	*	Object	03/20/97				
1 NCAC 30G .0103		11:04 NCR 194	11:19 NCR 1414	*	Approve	05/15/97	*		11:30 NCR 2314	
1 NCAC 30G .0104		11:04 NCR 194	11:19 NCR 1414	*	Approve	03/20/97	*		11:26 NCR 2004	
1 NCAC 30G .0105		11:04 NCR 194	11:19 NCR 1414	S/L	Object	03/20/97	*			
					Approve	05/15/97			11:30 NCR 2314	
				S/L	Approve	03/20/97			11:26 NCR 2004	
AGRICULTURE										
2 NCAC 48A .0206	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
2 NCAC 48A .0211	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
2 NCAC 48A .0214	10:24 NCR 3056		11:06 NCR 324	*	Ext. Review	12/19/96				
					Approve	01/16/97			11:22 NCR 1717	
2 NCAC 52A .0104	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0105	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0106	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0107	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0108	11:27 NCR 2053		12:03 NCR 169	*						
2 NCAC 52A .0109	11:27 NCR 2053		12:03 NCR 169	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52B .0212	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52B .0303	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 52C .0701	11:14 NCR 1107		11:22 NCR 1709	*	Approve	05/15/97			11:30 NCR 2314	

This index provides information related to notices, rules and other documents published in the Register. It includes information about rules for which Notice of Rule-Making Proceedings or Notice of Text have been published, rules submitted to the Rules Review Commission and rules codified since the last session of the General Assembly. For assistance contact the Rules Division at 919/733-2678.

Fiscal Note: S = Rule affects the expenditure or distribution of state funds. L = Rule affects the expenditure or distribution of local government funds. SE = Rule has a substantial economic impact of at least \$5,000,000 in a 12-month period. \* = Rule-making agency has determined that the rule does not impact state or local funds and does not have a substantial economic impact. See G.S. 150B-21.4.

# **CUMULATIVE INDEX** (Updated through August 11, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
2 NCAC 52D .0101	11:27 NCR 2053		12:03 NCR 169	*						
<b>Marketing Authority</b>										
2 NCAC 43F .0103	11:14 NCR 1107		11:22 NCR 1706	*	Object	05/15/97			12:03 NCR 213	
2 NCAC 43II .0101	11:14 NCR 1107		11:22 NCR 1706	*	Approve	06/19/97	*		11:30 NCR 2314	
2 NCAC 43II .0107	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97				
2 NCAC 43L .0202	11:14 NCR 1107		11:22 NCR 1706	*	Object	05/15/97	*		12:03 NCR 213	
2 NCAC 43L .0401	11:14 NCR 1107		11:22 NCR 1706	*	Approve	06/19/97			11:30 NCR 2314	
2 NCAC 43L .0402	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0403	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97			11:30 NCR 2314	
2 NCAC 43L .0405	11:14 NCR 1107		11:22 NCR 1706	*	Approve	05/15/97	*		11:30 NCR 2314	
<b>Plant Conservation Board</b>										
2 NCAC 48F .0301	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97			11:26 NCR 2004	
2 NCAC 48F .0302	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97			11:26 NCR 2004	
2 NCAC 48F .0304	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
2 NCAC 48F .0305	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
2 NCAC 48F .0306	11:07 NCR 407		11:11 NCR 883	*	Approve	03/20/97	*		11:26 NCR 2004	
<b>Structural Pest Control</b>										
2 NCAC 34 .0503		11:21 NCR 1651								
2 NCAC 34 .0602		11:21 NCR 1651								
2 NCAC 34 .0604		11:21 NCR 1651								
2 NCAC 34 .0605		11:21 NCR 1651								
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21 NCAC 02 .0208	12:04 NCR 244									
21 NCAC 02 .0210	12:04 NCR 244									
21 NCAC 02 .0213	12:04 NCR 244									
<b>AUCTIONEERS LICENSING BOARD</b>										
21 NCAC 04B .0202	11:18 NCR 1368		11:28 NCR 2129	*						
<b>COMMERCE</b>										



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(Updated through August 11, 1997)

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					Action	Date				
4 NCAC 01E	11:09 NCR 569									
4 NCAC 01F	11:09 NCR 569									
4 NCAC 01H	11:09 NCR 569									
4 NCAC 01I	11:09 NCR 569									
4 NCAC 01J	11:09 NCR 569									
4 NCAC 01K	11:09 NCR 569									
<b>Community Assistance</b>										
4 NCAC 01K .0501	11:09 NCR 569									
4 NCAC 01K .0502	11:09 NCR 569									
4 NCAC 01K .0503	11:09 NCR 569									
4 NCAC 01K .0504	11:09 NCR 569									
4 NCAC 01K .0505	11:09 NCR 569									
4 NCAC 01K .0506	11:09 NCR 569									
4 NCAC 19L .0401	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0403	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0404	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0407	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0501	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0502	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0505	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0706	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0707	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0708	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0802	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0805	11:09 NCR 569									
4 NCAC 19L .0901	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0906	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0907	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .0911	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L .1002	11:09 NCR 569		11:14 NCR 1113	*						

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4 NCAC 19L.1004	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1009	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1011	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1301	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1302	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1303	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1701	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1702	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1703	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1801	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1802	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1803	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1804	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1805	11:09 NCR 569		11:14 NCR 1113	*						
4 NCAC 19L.1900	11:09 NCR 569									
<b>Credit Union Division</b>										
4 NCAC 06C.0205	10:18 NCR 2398		11:29 NCR 2182	*						
4 NCAC 06C.0407	10:18 NCR 2398		11:29 NCR 2182	*						
4 NCAC 06C.0409	10:18 NCR 2398		11:29 NCR 2182	*						
<b>State Ports Authority</b>										
4 NCAC 13A.0101	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0102	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0105	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0202	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0203	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13A.0204	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0001	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0002	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0003	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13B.0004	10:24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	

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4 NCAC 13B.0005	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13C.0001	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13D.0101	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0101	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0102	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0103	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0201	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0202	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0301	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0302	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0401	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0402	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0403	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0404	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0405	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0501	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0502	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0601	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0602	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0603	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0701	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0702	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0801	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0803	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0901	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13E.0902	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13F.0301	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	
4 NCAC 13F.0302	10-24 NCR 3056		11:13 NCR 1040	*	Approve	06/19/97			12:03 NCR 213	

## COMMUNITY COLLEGES

23 NCAC 01A.0001 11:18 NCR 1369 11:25 NCR 1919

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23 NCAC 02C .0108	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02C .0202	11:18 NCR 1369									
23 NCAC 02C .0207	11:18 NCR 1369									
23 NCAC 02C .0305	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02C .0604	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02C .0701	11:18 NCR 1369									
23 NCAC 02D .0103	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02D .0201	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02D .0202	11:17 NCR 1336									
23 NCAC 02D .0202	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02D .0203	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02D .0301	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02D .0323	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02D .0324	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02D .0327	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0101	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0102	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0201	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0203	10:24 NCR 3058		11:09 NCR 585	*	Object Approve	01/16/97 02/20/97	*		11:24 NCR 1832	
23 NCAC 02E .0203	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0204	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0205	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0501	11:18 NCR 1369	11:25 NCR 1919								
23 NCAC 02E .0604	11:18 NCR 1369	11:25 NCR 1919								

## **CRIME CONTROL & PUBLIC SAFETY**

Governor's Crime Commission

14A NCAC 07 .0313 11:24 NCR 1818

12:01 NCR 6

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## **CULTURAL RESOURCES**

USS North Carolina Battleship Commission

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7 NCAC 05 .0203

11:19 NCR 1436

## DENTAL EXAMINERS

21 NCAC 16B .0303	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16I .0001	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16I .0002	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16I .0003	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16I .0004	11:20 NCR 1538									
21 NCAC 16I .0005	11:20 NCR 1538									
21 NCAC 16I .0006	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16M .0001	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16M .0003	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16R .0001	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16R .0002	11:20 NCR 1538									
21 NCAC 16R .0003	11:20 NCR 1538									
21 NCAC 16R .0004	11:20 NCR 1538		11:25 NCR 1915	*						
21 NCAC 16R .0005	11:20 NCR 1538									
21 NCAC 16V .0101	10:16 NCR 2043		11:20 NCR 1556	*						Notice Subject Matter
21 NCAC 16V .0102	10:16 NCR 2043		11:20 NCR 1556	*						Notice Subject Matter

## ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

15A Public Notice - Division of Water Quality										
15A Administrative Order on Consent - Division of Waste Management										
15A NCAC 01K 10:19 NCR 2506										
15A NCAC 01M .0101	11:19 NCR 1439									
15A NCAC 01M .0102	11:19 NCR 1439									
15A NCAC 01M .0201	11:19 NCR 1439									
15A NCAC 01M .0202	11:19 NCR 1439									
15A NCAC 01M .0301	11:19 NCR 1439									
15A NCAC 01M .0302	11:19 NCR 1439									
15A NCAC 01M .0303	11:19 NCR 1439									
										12:03 NCR 112
										12:03 NCR 158

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15A NCAC 01M .0304		11:19 NCR 1439								
15A NCAC 01M .0305		11:19 NCR 1439								
15A NCAC 01M .0306		11:19 NCR 1439								
15A NCAC 12B .0901		12:03 NCR 209								
15A NCAC 19G .0102		12:03 NCR 209								
<b>Coastal Resources Commission</b>										
15A NCAC 07	11:04 NCR 183									
15A NCAC 07H .0106	11:19 NCR 1408		11:27 NCR 2058	*						
15A NCAC 07H .0201	11:22 NCR 1704		11:27 NCR 2058	*						
15A NCAC 07H .0202	11:22 NCR 1704		11:27 NCR 2058	*						
15A NCAC 07H .0203	11:22 NCR 1704		agency withdrew							
15A NCAC 07H .0204	11:22 NCR 1704		11:27 NCR 2058	*						
15A NCAC 07H .0205	11:22 NCR 1704		11:27 NCR 2058	*						
15A NCAC 07H .0206	11:22 NCR 1704		11:27 NCR 2058	*						
15A NCAC 07H .0207	11:22 NCR 1704		agency withdrew							
15A NCAC 07H .0208	11:22 NCR 1704		11:27 NCR 2058	*						
15A NCAC 07H .0208	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0208	11:19 NCR 1408		11:27 NCR 2058	*						
15A NCAC 07H .0210	12:02 NCR 52									
15A NCAC 07H .0304	11:15 NCR 1200	11:15 NCR 1226	11:27 NCR 2069	S						
15A NCAC 07H .0305	11:15 NCR 1200	11:15 NCR 1226	11:27 NCR 2069	S						
15A NCAC 07H .0306	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .0309	11:08 NCR 442		11:12 NCR 981	*	Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 07H .1104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1202	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1204	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1205	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1304	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1404	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1504	11:04 NCR 183		11:11 NCR 907	*						

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15A NCAC 07H .1600	11:15 NCR 1200									
15A NCAC 07H .1601	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1604	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1605	11:15 NCR 1200		11:27 NCR 2071	*						
15A NCAC 07H .1704	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1804	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .1904	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2004	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07H .2104	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07K .0203	11:04 NCR 183		11:11 NCR 907	*						
15A NCAC 07M .0301	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0302	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0303	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0304	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0305	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0306	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0307	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0308	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0309	10:16B NCR 1921		11:11 NCR 907	*						
15A NCAC 07M .0401	10:18 NCR 2317		11:11 NCR 931	*	Approve	01/16/97	*			
15A NCAC 07M .0402	10:18 NCR 2317		11:11 NCR 931	*	Approve	01/16/97	*			
15A NCAC 07M .0403	10:18 NCR 2317		11:11 NCR 931	*	Object	01/16/97	*			
					Approve	02/20/97	*		11:24 NCR 1832	
15A NCAC 07M .1201	11:19 NCR 1408		11:27 NCR 2058	*						
15A NCAC 07M .1202	11:19 NCR 1408		11:27 NCR 2058	*						
<b>Environmental Management Commission</b>										
15A NCAC 02	10:24 NCR 3045									
15A NCAC 02	11:04 NCR 183									
15A NCAC 02	11:19 NCR 1408									
15A NCAC 02B .0101	11:24 NCR 1818		11:30 NCR 2303	*						

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15A NCAC 02B .0202	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0223	11:02 NCR 75									
15A NCAC 02B .0223	11:03 NCR 109									
15A NCAC 02B .0224	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0227	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0230	11:24 NCR 1818		11:30 NCR 2303	*						
15A NCAC 02B .0231	11:02 NCR 75		11:10 NCR 824	L/SE						
			11:14 NCR 1136							
15A NCAC 02B .0232	11:02 NCR 75		11:10 NCR 824	L						
			11:14 NCR 1136							
15A NCAC 02B .0233	11:02 NCR 75		11:10 NCR 824	L						
		12:02 NCR 77	11:14 NCR 1136	L						
15A NCAC 02B .0234	11:02 NCR 75		11:10 NCR 824	*						
			11:14 NCR 1136							
15A NCAC 02B .0235	11:02 NCR 75		11:10 NCR 824	*						
			11:14 NCR 1136							
15A NCAC 02B .0236	11:02 NCR 75		11:10 NCR 824	L						
			11:14 NCR 1136							
15A NCAC 02B .0303	10:18 NCR 2400		11:12 NCR 973	*						
15A NCAC 02B .0304	11:24 NCR 1818		12:01 NCR 6	*						
15A NCAC 02B .0304	11:26 NCR 1976		12:01 NCR 6	S						
15A NCAC 02B .0304	11:26 NCR 1984		12:01 NCR 6	S						
15A NCAC 02B .0305	11:20 NCR 1534									
15A NCAC 02B .0306	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0306	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0307	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0307	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0308	11:20 NCR 1534		11:28 NCR 2121	*						
15A NCAC 02B .0308	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0308	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0309	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0309	11:26 NCR 1984		12:01 NCR 6	*						



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15A NCAC 02B .0311	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0311	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0313	11:24 NCR 1818									
15A NCAC 02B .0313	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0313	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0315	11:24 NCR 1818									
15A NCAC 02B .0316	11:20 NCR 1534									
15A NCAC 02B .0316	11:26 NCR 1976		12:01 NCR 6	*						
15A NCAC 02B .0316	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0316	11:26 NCR 1984		12:01 NCR 6	*						
15A NCAC 02B .0317	11:26 NCR 1976		12:01 NCR 6	*						
	11:26 NCR 1984									
15A NCAC 02D .0101	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0101	12:02 NCR 52									
15A NCAC 02D .0104	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0105	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0108	11:15 NCR 1200									
15A NCAC 02D .0202	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0302	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0307	11:15 NCR 1200									
15A NCAC 02D .0501	11:15 NCR 1200									
15A NCAC 02D .0518	11:19 NCR 1408									
15A NCAC 02D .0521	11:15 NCR 1200									
15A NCAC 02D .0524	11:15 NCR 1200									
15A NCAC 02D .0525	11:15 NCR 1200									
15A NCAC 02D .0531	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0535	10:18 NCR 2317		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .0610	11:15 NCR 1200									
15A NCAC 02D .0806	11:26 NCR 1976									
15A NCAC 02D .0902	11:19 NCR 1408									
15A NCAC 02D .0909	11:19 NCR 1408									

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15A NCAC 02D .0912	11:15 NCR 1200									
15A NCAC 02D .0917	11:19 NCR 1408									
15A NCAC 02D .0918	11:19 NCR 1408									
15A NCAC 02D .0919	11:19 NCR 1408									
15A NCAC 02D .0920	11:19 NCR 1408									
15A NCAC 02D .0921	11:19 NCR 1408									
15A NCAC 02D .0922	11:19 NCR 1408									
15A NCAC 02D .0923	11:19 NCR 1408									
15A NCAC 02D .0924	11:19 NCR 1408									
15A NCAC 02D .0934	11:19 NCR 1408									
15A NCAC 02D .0938	12:02 NCR 52									
15A NCAC 02D .0948	11:19 NCR 1408									
15A NCAC 02D .0949	11:19 NCR 1408									
15A NCAC 02D .0950	11:19 NCR 1408									
15A NCAC 02D .0951	11:19 NCR 1408									
15A NCAC 02D .0953	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .0953	11:26 NCR 1976									
15A NCAC 02D .0954	11:15 NCR 1200									
15A NCAC 02D .1005	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1100	11:08 NCR 442									
15A NCAC 02D .1104	12:02 NCR 52	12:02 NCR 77								
15A NCAC 02D .1106	11:26 NCR 1976									
15A NCAC 02D .1107	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02D .1201	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1202	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1203	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1203	11:15 NCR 1200									
15A NCAC 02D .1204	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02D .1204	11:04 NCR 183		12:04 NCR 270	*						
15A NCAC 02D .1205	10:24 NCR 3045		11:16 NCR 1271	L/SE	Approve	04/17/97			11:29 NCR 2211	

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15A NCAC 02H .1205	11:15 NCR 1200									
15A NCAC 02L	11:15 NCR 1200									
	11:15 NCR 1204									
15A NCAC 02L .0106		10:19 NCR 2508	11:21 NCR 1639	*						
15A NCAC 02L .0115	11:15 NCR 1200		11:21 NCR 1639	L						
	11:15 NCR 1204									
15A NCAC 02L .0202	10:20 NCR 2591									
15A NCAC 02N	11:15 NCR 1200									
15A NCAC 02N	11:15 NCR 1204									
15A NCAC 02N .0701	11:15 NCR 1200		11:21 NCR 1639	*						
15A NCAC 02N .0707	11:15 NCR 1204		11:21 NCR 1639	*						
15A NCAC 02P	11:15 NCR 1200									
15A NCAC 02P .0402	11:15 NCR 1204	10:19 NCR 2512	11:21 NCR 1639	*						
15A NCAC 02Q .0102			11:06 NCR 350	*						
15A NCAC 02Q .0102	11:19 NCR 1408									
15A NCAC 02Q .0102	12:02 NCR 52									
15A NCAC 02Q .0103	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0108	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0201	12:02 NCR 52									
15A NCAC 02Q .0207	11:19 NCR 1408		12:04 NCR 270	*						
15A NCAC 02Q .0300	11:26 NCR 1976									
15A NCAC 02Q .0307	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0312	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0313	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0400	12:04 NCR 240									
15A NCAC 02Q .0521	11:15 NCR 1200		12:04 NCR 270	*						
15A NCAC 02Q .0525	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0527	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0607	10:24 NCR 3045		11:16 NCR 1271	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 02Q .0700	11:08 NCR 442									
15A NCAC 02Q .0801	12:02 NCR 52									

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15A NCAC 02Q .0803	12:02 NCR 52									
15A NCAC 02Q .0805	10:18 NCR 2317		12:04 NCR 270	S						
15A NCAC 02Q .0806	10:24 NCR 3045		12:04 NCR 270	S						
15A NCAC 02Q .0807	10:24 NCR 3045		12:04 NCR 270	*						
15A NCAC 02R .0100	12:02 NCR 52									
15A NCAC 02R .0200	12:02 NCR 52									
15A NCAC 02R .0300	12:02 NCR 52									
15A NCAC 02R .0400	12:02 NCR 52									
15A NCAC 02R .0500	12:02 NCR 52									
15A NCAC 02R .0501		11:27 NCR 2075								
15A NCAC 02R .0502		11:27 NCR 2075								
15A NCAC 02R .0503		11:27 NCR 2075								
15A NCAC 02R .0504		11:27 NCR 2075								
15A NCAC 02R .0600	12:02 NCR 52									
<b>Health Services, Commission for</b>										
15A NCAC 13A .0100	12:02 NCR 52									
15A NCAC 13A .0101	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0101	N/A		N/A		Approve	07/17/97			12:04 NCR 317	
15A NCAC 13A .0105	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0107	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0111	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0112	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13A .0119	11:16 NCR 1269		11:20 NCR 1552	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13B .1627	11:08 NCR 442		11:13 NCR 1055	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 13B .1800	11:08 NCR 442									
15A NCAC 13B .1800	11:26 NCR 1976									
15A NCAC 18A	11:04 NCR 183									
15A NCAC 18A .0134	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
					Approve	01/16/97	*			
15A NCAC 18A .0168	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
					Approve	01/16/97	*			

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15A NCAC 18A .0176	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0182	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97				
15A NCAC 18A .0183	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0185	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0187	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .0301	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .0421	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0614	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0618	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .0621	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .0901	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .1301	11:08 NCR 442		11:12 NCR 987	*	Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .1319	11:08 NCR 442		11:12 NCR 987	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .1937	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .1938	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .1958	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .1961	11:19 NCR 1408	11:20 NCR 1561	12:02 NCR 61	*	Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .2301	12:03 NCR 168				Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .2302	12:03 NCR 168				Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .2303	12:03 NCR 168				Approve	01/16/97	*		11:22 NCR 1717	
15A NCAC 18A .2304	12:03 NCR 168				Object	12/19/96	*		11:22 NCR 1717	
15A NCAC 18A .2305	12:03 NCR 168				Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .2306	12:03 NCR 168				Object	12/19/96			11:22 NCR 1717	
15A NCAC 18A .2307	12:03 NCR 168				Approve	01/16/97			11:22 NCR 1717	
15A NCAC 18A .2308	12:03 NCR 168				Object	12/19/96			11:22 NCR 1717	

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15A NCAC 18A .2309	12:03 NCR 168									
15A NCAC 18A .2310	12:03 NCR 168									
15A NCAC 18A .2600	12:04 NCR 240									
15A NCAC 19A .0101	11:26 NCR 1976		12:02 NCR 61	S/L						
15A NCAC 19A .0101	12:02 NCR 52	12:02 NCR 88								
15A NCAC 19A .0102	11:26 NCR 1976		12:02 NCR 61	S/L						
15A NCAC 19A .0201	11:26 NCR 1976		12:02 NCR 61	*						
15A NCAC 19A .0203	11:21 NCR 1638		12:02 NCR 61	*						
15A NCAC 19A .0205	11:26 NCR 1976		12:02 NCR 61	*						
15A NCAC 19C .0801		12:01 NCR 31								
15A NCAC 19C .0802		12:01 NCR 31								
15A NCAC 19C .0803		12:01 NCR 31								
15A NCAC 19G .0102	12:02 NCR 52									
15A NCAC 21I .0101		11:07 NCR 422	11:20 NCR 1552	*	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 21J .0101		11:07 NCR 422	11:20 NCR 1552	*	Approve	04/17/97	*		11:29 NCR 2211	
15A NCAC 24A .0202		11:24 NCR 1827	12:02 NCR 61	S						
15A NCAC 24A .0202		12:01 NCR 31								
15A NCAC 26C .0001	11:19 NCR 1408									
15A NCAC 26C .0002	11:19 NCR 1408									
15A NCAC 26C .0003	11:19 NCR 1408									
15A NCAC 26C .0004	11:19 NCR 1408									
15A NCAC 26C .0005	11:19 NCR 1408									
15A NCAC 26C .0006	11:19 NCR 1408									
15A NCAC 26C .0007	11:19 NCR 1408									
Marine Fisheries Commission										
15A NCAC 03	11:11 NCR 881									
15A NCAC 03	11:20 NCR 1537									
15A NCAC 03	11:26 NCR 1976									
15A NCAC 03	11:26 NCR 1985									
15A NCAC 03I .0117	11:26 NCR 1976	11:26 NCR 2000								

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15A NCAC 03J .0202	11 07 NCR 407		11:11 NCR 888	*						
15A NCAC 03L .0102	11 07 NCR 407		11:11 NCR 888	*						
15A NCAC 03M .0204		11:14 NCR 1153	11:18 NCR 1371	*	Approve	04/17/97			11 29 NCR 2211	
15A NCAC 03M .0503		11:18 NCR 1383	11:26 NCR 1988	*						
15A NCAC 03M .0506		11:18 NCR 1383	11:26 NCR 1988	*						
15A NCAC 03M .0507		11:11 NCR 938	11:26 NCR 1988	*						
15A NCAC 03M .0514		11:18 NCR 1383	11:26 NCR 1088	*						
<b>Parks and Recreation Commission</b>										
15A NCAC 12K .0101	12 02 NCR 52									
15A NCAC 12K .0103	12 02 NCR 52									
15A NCAC 12K .0104	12 02 NCR 52									
15A NCAC 12K .0105	12 02 NCR 52									
<b>Radiation Protection</b>										
15A NCAC 11 .0100	12 04 NCR 240									
15A NCAC 11 .0300	12 04 NCR 240									
15A NCAC 11 .0400	12 04 NCR 240									
15A NCAC 11 .1100	12 04 NCR 240									
15A NCAC 11 .1400	12 04 NCR 240									
15A NCAC 11 .1600	12 04 NCR 240									
<b>Water Pollution Control System Operators Certification Commission</b>										
15A NCAC 08A	11:26 NCR 1976									
15A NCAC 08B	11:26 NCR 1976									
15A NCAC 08C	11:26 NCR 1976									
15A NCAC 08D	11:26 NCR 1976									
15A NCAC 08E	11:26 NCR 1976									
15A NCAC 08F	11:26 NCR 1976									
15A NCAC 08F .0101		11:19 NCR 1442	11:28 NCR 2123	*						
15A NCAC 08F .0102		11:19 NCR 1442	11:28 NCR 2123	*						
15A NCAC 08F .0201		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0202		11:19 NCR 1442	11:28 NCR 2123	S						



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15A NCAC 08F .0203		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0301		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0401		11:19 NCR 1442	11:28 NCR 2123	*						
15A NCAC 08F .0402		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0403		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0404		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0405		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0406		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0407		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0501		11:19 NCR 1442	11:28 NCR 2123	*						
15A NCAC 08F .0502		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0503		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0504		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0505		11:19 NCR 1442	11:28 NCR 2123	S						
15A NCAC 08F .0506		11:19 NCR 1442	11:28 NCR 2123	*						
<b>Wildlife Resources Commission</b>										
15A NCAC 10B .0115	11:11 NCR 882									
15A NCAC 10B .0116	11:12 NCR 959		11:18 NCR 1372	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10B .0208	11:02 NCR 76		11:08 NCR 495	*						
15A NCAC 10C .0107	11:02 NCR 76									
15A NCAC 10C .0401	11:02 NCR 76									
15A NCAC 10C .0401	11:07 NCR 408									
15A NCAC 10D .0002	11:02 NCR 76									
15A NCAC 10F .0300	11:01 NCR 13		11:08 NCR 495	*						
15A NCAC 10F .0302	11:05 NCR 272		11:14 NCR 1150	*	Approve	03/20/97	*		11:26 NCR 2004	
15A NCAC 10F .0307	11:08 NCR 451		11:14 NCR 1150	*	Approve	03/20/97	*		11:26 NCR 2004	
15A NCAC 10F .0308	11:21 NCR 1638		11:29 NCR 2206	*						
15A NCAC 10F .0311	12:01 NCR 5									
15A NCAC 10F .0317	11:13 NCR 1039		11:19 NCR 1427	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10F .0327	11:14 NCR 1109		11:20 NCR 1551	*	Approve	04/17/97	*		11:29 NCR 2211	

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15A NCAC 10F .0333	12:01 NCR 5									
15A NCAC 10F .0339	11:13 NCR 1039		11:19 NCR 1427	*	Approve	04/17/97			11:29 NCR 2211	
15A NCAC 10F .0339	11:21 NCR 1638		11:29 NCR 2206	*						
15A NCAC 10F .0355	11:25 NCR 1905		12:01 NCR 18	*						
15A NCAC 10F .0360	12:01 NCR 5									
15A NCAC 10F .0367	11:16 NCR 1269									
15A NCAC 10G	11:01 NCR 13									
15A NCAC 10G .0100	11:02 NCR 76									

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Voting Rights Act										12:02 NCR 50
Voting Rights Act										12:04 NCR 236

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21 NCAC 12 .0202		11:24 NCR 1828								
21 NCAC 12 .0204	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0503	11:28 NCR 2117									
21 NCAC 12 .0504	11:28 NCR 2117									
21 NCAC 12 .0901	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0902	11:28 NCR 2117									
21 NCAC 12 .0903	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0904	11:28 NCR 2117		12:04 NCR 292	*						
21 NCAC 12 .0905	11:28 NCR 2117									
21 NCAC 12 .0906	11:28 NCR 2117									
21 NCAC 12 .0907	11:28 NCR 2117									
21 NCAC 12 .0908	11:28 NCR 2117									
21 NCAC 12 .0909	11:28 NCR 2117									
21 NCAC 12 .0910	11:28 NCR 2117									
21 NCAC 12 .0911	11:28 NCR 2117									
21 NCAC 12 .0912	11:28 NCR 2117									

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Number 112 - Eff. 05/22/97										12:01 NCR 1
Number 113 - Eff. 06/12/97										12:01 NCR 1
Number 114 - Eff. 06/26/97										12:03 NCR 110
Number 115 - Eff. 07/03/97										12:03 NCR 110
Number 116 - Eff. 07/21/97										12:04 NCR 227

## HOUSING FINANCE AGENCY

24 NCAC 01P .0101		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	
24 NCAC 01P .0102		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	
24 NCAC 01P .0103		11:14 NCR 1154	11:28 NCR 2132	S	Object	07/17/97				
24 NCAC 01P .0201		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97	*		12:04 NCR 317	
24 NCAC 01P .0202		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97	*		12:04 NCR 317	
24 NCAC 01P .0203		11:14 NCR 1154	11:28 NCR 2132	S	Approve	07/17/97			12:04 NCR 317	

## HUMAN RESOURCES

10 NCAC 01B	11:23 NCR 1779									
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### Aging

10 NCAC 22	10:23 NCR 2956									
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### Child Day Care Commission

10 NCAC 03U .0302	11:24 NCR 1817									
10 NCAC 03U .0506	11:24 NCR 1817									
10 NCAC 03U .0509	11:24 NCR 1817									
10 NCAC 03U .0601	11:24 NCR 1817									
10 NCAC 03U .0602	11:24 NCR 1817									
10 NCAC 03U .0604	11:03 NCR 109									
10 NCAC 03U .0604	11:24 NCR 1817									
10 NCAC 03U .0700	11:08 NCR 449									
10 NCAC 03U .0705	11:14 NCR 1108									
10 NCAC 03U .0705	11:24 NCR 1817									
10 NCAC 03U .0707	11:08 NCR 449									

11:26 NCR 2004

03/20/97

Approve

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11:27 NCR 2054

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11:17 NCR 1338

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Object

03/20/97

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10 NCAC 03U .0714	11:24 NCR 1817				Approve	04/17/97	*		11:29 NCR 2211	
10 NCAC 03U .0802	11:24 NCR 1817									
10 NCAC 03U .0803	11:24 NCR 1817									
10 NCAC 03U .0901	11:08 NCR 449		11:17 NCR 1338	*						
10 NCAC 03U .1402	11:24 NCR 1817									
10 NCAC 03U .1403	11:24 NCR 1817									
10 NCAC 03U .1717	11:14 NCR 1108		11:27 NCR 2054	*						
10 NCAC 03U .1717	11:24 NCR 1817									
10 NCAC 03U .2500	11:29 NCR 2181									
10 NCAC 03U .2510	11:08 NCR 449									
10 NCAC 03U .2603	11:24 NCR 1817									
10 NCAC 03U .2606	11:08 NCR 449									
10 NCAC 03U .2610	11:24 NCR 1817									
10 NCAC 03U .2611	11:24 NCR 1817									
<b>Facility Services</b>										
Public Notice - Draft 1998 State Medical Facilities Plan										
10 NCAC 03	10:18 NCR 2399									12:01 NCR 2
10 NCAC 03R .3000	11:23 NCR 1780									
10 NCAC 03R .3001	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3002		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3020	10:23 NCR 2956		11:06 NCR 328	S/L/SE						
10 NCAC 03R .3030	10:23 NCR 2956		11:06 NCR 328	S/L/SE	Object Approve	11/21/96 03/20/97	*		11:26 NCR 2004	
10 NCAC 03R .3030		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object Object Approve	10/17/96 11/21/96 03/20/97	*			11:11 NCR 888
10 NCAC 03R .3032	10:23 NCR 2956		11:06 NCR 328	S/L/SE	Object	01/16/97			11:26 NCR 2004	
10 NCAC 03R .3033		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
10 NCAC 03R .3034		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object Return to agency	01/16/97 03/20/97				

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10 NCAC 03R .3035		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
10 NCAC 03R .3036		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Return to agency	03/20/97				
10 NCAC 03R .3037		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Object	01/16/97				
10 NCAC 03R .3038		10:21 NCR 2699	11:08 NCR 452	S/L/SE	Return to agency	03/20/97				
10 NCAC 03R .3040	10:23 NCR 2956		11:06 NCR 328	S/L/SE	Object	01/16/97				
10 NCAC 03R .3050	10:23 NCR 2956		11:06 NCR 328	S/L/SE	Return to agency	03/20/97				
10 NCAC 03R .3051		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3052		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3053		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3053		11:22 NCR 1713			Return to agency	03/20/97				
10 NCAC 03R .3054		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3055		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3056		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3057		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3058		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3059		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3060		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3061		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3062		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3063		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3064		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3065		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3066		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3067		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3068		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3069		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				
10 NCAC 03R .3070		11:21 NCR 1655	12:04 NCR 246	*	Object	01/16/97				
10 NCAC 03R .3071		11:21 NCR 1655	12:04 NCR 246	*	Return to agency	03/20/97				

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10 NCAC 03R .3072		11:21 NCR 1655	12:04 NCR 246	S/L/SE						
10 NCAC 03R .3073		11:21 NCR 1655	12:04 NCR 246	S/L/SE						
10 NCAC 03R .3074		11:21 NCR 1655	12:04 NCR 246	S/L/SE						
10 NCAC 03R .3075		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3076		11:21 NCR 1655	12:04 NCR 246	S/L/SE						
10 NCAC 03R .3077		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3078		11:21 NCR 1655	12:04 NCR 246	S/L/SE						
10 NCAC 03R .3079		11:21 NCR 1655	12:04 NCR 246	S/L/SE						
10 NCAC 03R .3080		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3081		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3082		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3083		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3084		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3085		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3086		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3087		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .3088		11:21 NCR 1655	12:04 NCR 246	*						
10 NCAC 03R .6001	11:22 NCR 1704									
<b>Medical Assistance</b>										
Medicaid Disproportionate Share List										
10 NCAC 26B .0113	10:16 NCR 1721		11:28 NCR 2118	S/L						12:02 NCR 46
10 NCAC 26B .0123		11:19 NCR 1436	11:24 NCR 1824	*	Approve	06/19/97	*		12:03 NCR 213	
10 NCAC 26G .0707	11:08 NCR 450	11:15 NCR 1205	11:18 NCR 1371	*	Approve	04/17/97			11:29 NCR 2211	
10 NCAC 26H .0101	11:14 NCR 1108									
10 NCAC 26H .0102	11:14 NCR 1108									
10 NCAC 26H .0104	11:16 NCR 1268		11:23 NCR 1781	S/L	Approve	05/15/97	*		11:30 NCR 2314	
10 NCAC 26H .0212		11:15 NCR 1205								
10 NCAC 26H .0213		11:15 NCR 1205								
10 NCAC 26H .0213	11:18 NCR 1368									
10 NCAC 26H .0213		11:26 NCR 1997								

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10 NCAC 26H .0506	10:21 NCR 2686									
10 NCAC 26H .0506		11:19 NCR 1438	11:29 NCR 2205	S/L/SE						
10 NCAC 26H .0602		12:04 NCR 313								
10 NCAC 50B .0202		11:10 NCR 841	11:28 NCR 2118	*	Approve	07/17/97	*		12:04 NCR 317	
10 NCAC 50B .0404		11:10 NCR 841	11:28 NCR 2118	L	Approve	07/17/97			12:04 NCR 317	
10 NCAC 50B .0409		11:10 NCR 841	11:28 NCR 2118	*	Approve	07/17/97			12:04 NCR 317	
10 NCAC 50D .0101	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0102	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0103	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0201	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0301	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0302	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0401	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0402	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0501	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0502	10:24 NCR 3057	11:04 NCR 196								
10 NCAC 50D .0503	10:24 NCR 3057	11:04 NCR 196								
<b>Medical Care Commission</b>										
10 NCAC 03B	11:16 NCR 1268									
10 NCAC 03B .1001		11:20 NCR 1560	11:29 NCR 2187	*						
10 NCAC 03B .1002		11:20 NCR 1560	11:29 NCR 2187	*						
10 NCAC 03C .3707	11:20 NCR 1534		11:29 NCR 2187	*						
10 NCAC 03D .0800	11:23 NCR 1779									
10 NCAC 03D .0900	11:23 NCR 1779									
10 NCAC 03D .1000	11:23 NCR 1779									
10 NCAC 03D .1100	11:23 NCR 1779									
10 NCAC 03D .1200	11:23 NCR 1779									
10 NCAC 03D .1300	11:23 NCR 1779									
10 NCAC 03D .1400	11:23 NCR 1779									
10 NCAC 03D .1500	11:23 NCR 1779									

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10 NCAC 03D .2001	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2101	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2102	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2103	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2104	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2105	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2106	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2201	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2202	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2203	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2301	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2302	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2303	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03D .2401	10:18 NCR 2399		11:29 NCR 2187	*						
10 NCAC 03M	11:23 NCR 1779									
<b>Mental Health, Developmental Disabilities and Substance Abuse Services</b>										
10 NCAC 14V .3402	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97			11:30 NCR 2314	
10 NCAC 14V .3803	11:08 NCR 449		11:14 NCR 1124	*	Approve	05/15/97	*			
10 NCAC 14V .5602	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97	*		11:30 NCR 2314	
10 NCAC 14V .7006		12.01 NCR 31	11:24 NCR 1822	*	Approve	05/15/97			11:30 NCR 2314	
10 NCAC 14V .7101	11:30 NCR 2300									
10 NCAC 14V .7102	11:30 NCR 2300									
10 NCAC 14V .7103	11:30 NCR 2300									
10 NCAC 14V .7104	11:30 NCR 2300									
10 NCAC 14V .7105	11:30 NCR 2300									
10 NCAC 15A .0128	11:08 NCR 449		11:14 NCR 1124	*	Withdrawn	01/16/97				
10 NCAC 15A .0129	11:08 NCR 449		11:24 NCR 1822	*	Approve	05/15/97			11:30 NCR 2314	
10 NCAC 18W .0201	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97	*		11:30 NCR 2314	
					Approve	02/20/97				



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10 NCAC 18W .0202	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0203	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97				
10 NCAC 18W .0204	10:15 NCR 1478		11:14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 18W .0205	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0206	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 18W .0207	10:15 NCR 1478		11:14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 18W .0208	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0209	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0210	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0211	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0212	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0213	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 18W .0214	10:15 NCR 1478		11:14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 18W .0215	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0216	10:15 NCR 1478		11:14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 18W .0217	10:15 NCR 1478		11:14 NCR 1124	S	Approve	02/20/97	*			
10 NCAC 18W .0218	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 18W .0219	10:15 NCR 1478		11:14 NCR 1124	S	Approve	01/16/97	*			
10 NCAC 45H .0200	11:08 NCR 449		11:14 NCR 1124	S	Object	01/16/97	*			
10 NCAC 45H .0203	11:08 NCR 449	11:29 NCR 2208	11:29 NCR 2208	*	Approve	02/20/97	*			
Social Services Commission										
10 NCAC 35E .0101		11:16 NCR 1288	11:30 NCR 2301	*	Object	01/16/97	*			
10 NCAC 35E .0105		11:16 NCR 1288	11:30 NCR 2301	*	Approve	02/20/97	*			
10 NCAC 35E .0106		11:16 NCR 1288	11:30 NCR 2301	*	Approve	01/16/97	*			
10 NCAC 35E .0308		11:16 NCR 1288	11:30 NCR 2301	*	Approve	01/16/97	*			
10 NCAC 41I .0100	10:17 NCR 2228				Object	01/16/97	*			
10 NCAC 41I .0102	10:17 NCR 2228		10:21 NCR 2687	*	Approve	02/20/97	*			
10 NCAC 42J .0001		11:16 NCR 1288	11:30 NCR 2301	*	Approve	01/16/97	*			

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10 NCAC 42J .0004		11:16 NCR 1288	11:30 NCR 2301	*						
10 NCAC 42J .0005		11:16 NCR 1288	11:30 NCR 2301	*						
<b>INSURANCE</b>										
<b>N.C. Home Inspector Licensure Board</b>										
11 NCAC 08 .1001		11:15 NCR 1212	11:19 NCR 1416	*	Agency Withdrawn 03/97				12:03 NCR 213	11:27 NCR 2049 Temp Filed over obj
11 NCAC 08 .1002		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97					Temp Filed over obj
11 NCAC 08 .1003		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1004		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1005		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97		*		12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1006		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1007		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1008		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1009		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1010		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1011		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1101		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1102		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1103		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1104		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1105		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1106		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97		*		12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1107		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1108		11:15 NCR 1212	11:25 NCR 1906	*	Agency Withdrawn 03/97				12:03 NCR 213	Temp Filed over obj
11 NCAC 08 .1109		11:15 NCR 1212	11:25 NCR 1906	*	Approve 06/19/97				12:03 NCR 213	Temp Filed over obj

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11 NCAC 08 .1110		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1111		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1112		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1113		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1114		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1115		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1116		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1201		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1202		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1203		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1204		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1205		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1206		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1207		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1208		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 08 .1209		11:15 NCR 1212	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1416	*	Agency Withdraw 03/97					
11 NCAC 10 .0602		11:15 NCR 1223	11:25 NCR 1906	*	Approve	06/19/97			12:03 NCR 213	Temp Filed over obj
			11:19 NCR 1426	*	Agency withdraw 03/97		*		12:03 NCR 213	Temp Filed over obj
11 NCAC 10 .0603		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	Temp Filed over obj
				*	Approve	03/20/97	*		11:26 NCR 2004	Temp Filed over obj
11 NCAC 10 .0606		11:15 NCR 1223	11:19 NCR 1426	*	Approve	03/20/97	*		11:26 NCR 2004	Temp Filed over obj

## JUSTICE

### Alarm Systems Licensing Board

12 NCAC 11 11:30 NCR 2300  
12 NCAC 11 .0202 10:24 NCR 3057

### Criminal Justice Education and Training Standards Commission

11:14 NCR 1136

Tabled

06/19/97

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Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
12 NCAC 09A .0103	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0102	11:14 NCR 1109		11:20 NCR 1539	*	Object	04/17/97				
12 NCAC 09B .0111	11:14 NCR 1109		11:20 NCR 1539	*	Approve	05/15/97	*		11:30 NCR 2314	
12 NCAC 09B .0206	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0224	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0225	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09B .0409	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0304	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0307	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97	*		11:29 NCR 2211	
12 NCAC 09C .0309	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0601	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0602	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0603	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0604	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0605	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0606	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0607	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
12 NCAC 09C .0608	11:14 NCR 1109		11:20 NCR 1539	*	Approve	04/17/97			11:29 NCR 2211	
<b>Private Protective Services Board</b>										
12 NCAC 07D	11:10 NCR 818									
12 NCAC 07D	11:16 NCR 1268									
12 NCAC 07D .0100	11:16 NCR 1268									
12 NCAC 07D .0104	11:16 NCR 1268									
12 NCAC 07D .0201	11:10 NCR 818									
12 NCAC 07D .0204	11:14 NCR 1108									
12 NCAC 07D .0504	11:10 NCR 818									
12 NCAC 07D .0701	11:10 NCR 818									
12 NCAC 07D .0801	11:10 NCR 818									
12 NCAC 07D .0902	11:10 NCR 818									

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(Updated through August 11, 1997)

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					Action	Date				
12 NCAC 07D.1106	11:14 NCR 1108									
<b>Sheriffs' Education and Training Standards Commission</b>										
12 NCAC 10B.0101	12:04 NCR 242									
12 NCAC 10B.0202	12:04 NCR 242									
12 NCAC 10B.0204	12:04 NCR 242									
12 NCAC 10B.0206	12:04 NCR 242									
12 NCAC 10B.0304	12:04 NCR 242									
12 NCAC 10B.0505	12:04 NCR 242									
12 NCAC 10B.0601	12:04 NCR 242									
12 NCAC 10B.0603	12:04 NCR 242									
12 NCAC 10B.0605	12:04 NCR 242									
12 NCAC 10B.0702	12:04 NCR 242									
12 NCAC 10B.0703	12:04 NCR 242									
12 NCAC 10B.0704	12:04 NCR 242									
12 NCAC 10B.0705	12:04 NCR 242									
12 NCAC 10B.0706	12:04 NCR 242									
12 NCAC 10B.0801	12:04 NCR 242									
12 NCAC 10B.0802	12:04 NCR 242									
12 NCAC 10B.0903	12:04 NCR 242									
12 NCAC 10B.0908	12:04 NCR 242									
12 NCAC 10B.0909	12:04 NCR 242									
12 NCAC 10B.0910	12:04 NCR 242									
12 NCAC 10B.0911	12:04 NCR 242									
12 NCAC 10B.1002	12:04 NCR 242									
12 NCAC 10B.1004	12:04 NCR 242									
12 NCAC 10B.1005	12:04 NCR 242									
12 NCAC 10B.1006	12:04 NCR 242									
12 NCAC 10B.1101	12:04 NCR 242									
12 NCAC 10B.1102	12:04 NCR 242									
12 NCAC 10B.1103	12:04 NCR 242									

# **CUMULATIVE INDEX** (Updated through August 11, 1997)

Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
12 NCAC 10B .1104	12:04 NCR 242									
12 NCAC 10B .1105	12:04 NCR 242									
12 NCAC 10B .1202	12:04 NCR 242									
12 NCAC 10B .1204	12:04 NCR 242									
12 NCAC 10B .1205	12:04 NCR 242									
12 NCAC 10B .1206	12:04 NCR 242									
<b>State Bureau of Investigation/Division of Criminal Information</b>										
12 NCAC 04E .0103	11:11 NCR 881		11:17 NCR 1339	*	Approve	05/15/97			11:30 NCR 2314	
12 NCAC 04E .0104	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
12 NCAC 04E .0401	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97			12:04 NCR 317	
12 NCAC 04E .0404	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
12 NCAC 04E .0405	11:17 NCR 1336		11:22 NCR 1710	*	Approve	07/17/97	*		12:04 NCR 317	
<b>LABOR</b>										
<b>Boiler &amp; Pressure Vessel</b>										
13 NCAC 13 .0213		11:25 NCR 1918								
<b>Occupational Safety and Health</b>										
13 NCAC 07A .0302	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07A .0708	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07A .0900	11:11 NCR 881									
13 NCAC 07F	11:03 NCR 106									
13 NCAC 07F .0101	11:24 NCR 1817									
13 NCAC 07F .0101	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0102	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0201	11:03 NCR 106									
13 NCAC 07F .0201	11:09 NCR 568									
13 NCAC 07F .0201	11:24 NCR 1817		12:02 NCR 60	*						
13 NCAC 07F .0201	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0301	11:03 NCR 106									
13 NCAC 07F .0301	11:26 NCR 1984		12:03 NCR 170	*						

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Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
13 NCAC 07F .0426	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0501	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 07F .0502	11:26 NCR 1984		12:03 NCR 170	*						
13 NCAC 16 .0102	11:26 NCR 1984									
13 NCAC 16 .0201	11:26 NCR 1984									
13 NCAC 16 .0202	11:26 NCR 1984									
13 NCAC 16 .0203	11:26 NCR 1984									
13 NCAC 16 .0204	11:26 NCR 1984									
13 NCAC 16 .0205	11:26 NCR 1984									
13 NCAC 16 .0206	11:26 NCR 1984									
13 NCAC 16 .0207	11:26 NCR 1984									
13 NCAC 16 .0208	11:26 NCR 1984									
13 NCAC 16 .0301	11:26 NCR 1984									
13 NCAC 16 .0302	11:26 NCR 1984									
13 NCAC 16 .0303	11:26 NCR 1984									
<b>MEDICAL BOARD</b>										
21 NCAC 32B	11:18 NCR 1369									
21 NCAC 32B	12:04 NCR 245									
21 NCAC 32F .0103	11:18 NCR 1386		12:04 NCR 294	*						
21 NCAC 32H .0102			12:04 NCR 294	*						
21 NCAC 32H .0201			12:04 NCR 294	*						
21 NCAC 32H .0202			12:04 NCR 294	*						
21 NCAC 32H .0203			12:04 NCR 294	*						
21 NCAC 32H .0301			12:04 NCR 294	*						
21 NCAC 32H .0302			12:04 NCR 294	*						
21 NCAC 32H .0303			12:04 NCR 294	*						
21 NCAC 32H .0401			12:04 NCR 294	*						
21 NCAC 32H .0402			12:04 NCR 294	*						
21 NCAC 32H .0403	12:04 NCR 314		12:04 NCR 294	*						

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Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
21 NCAC 32H .0404	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0405	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0406	11:26 NCR 1986		12:04 NCR 294	L						
21 NCAC 32H .0407	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0408	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0409	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0501	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0502	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0503	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0504	11:26 NCR 1986		12:04 NCR 294	L						
21 NCAC 32H .0505	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0506	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0507	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0508	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0601	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0602	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0801	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .0901	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32H .1004	11:26 NCR 1986		12:04 NCR 294	*						
21 NCAC 32O	11:18 NCR 1369									
<b>NURSING, BOARD OF</b>										
21 NCAC 36 .0109	11:24 NCR 1821		11:28 NCR 2130	*						
21 NCAC 36 .0320	11:14 NCR 1109		11:19 NCR 1428	*	Object Approve	03/20/97 04/17/97	*		11:29 NCR 2211	
21 NCAC 36 .0601	12:01 NCR 5									
21 NCAC 36 .0602	12:01 NCR 5									
21 NCAC 36 .0603	12:01 NCR 5									
21 NCAC 36 .0604	12:01 NCR 5									
21 NCAC 36 .0605	12:01 NCR 5									
21 NCAC 36 .0606	12:01 NCR 5									



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					Action	Date				

## NURSING HOME ADMINISTRATORS

21 NCAC 37D .0202	11:11 NCR 940	11:18 NCR 1372	*	Approve	04/17/97	*	11:29 NCR 2211
21 NCAC 37G .0102	11:11 NCR 940	11:18 NCR 1372	*	Approve	04/17/97		11:29 NCR 2211

## OPTOMETRY, BOARD OF

21 NCAC 42B .0107	11:18 NCR 1369	11:25 NCR 1917	*				
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## PHARMACY, BOARD OF

21 NCAC 46 .1601	12:03 NCR 168
21 NCAC 46 .1603	12:03 NCR 168
21 NCAC 46 .1604	12:03 NCR 168
21 NCAC 46 .1804	12:03 NCR 168
21 NCAC 46 .1810	12:03 NCR 168
21 NCAC 46 .2103	12:03 NCR 168
21 NCAC 46 .2201	12:03 NCR 168
21 NCAC 46 .2301	12:03 NCR 168

## PUBLIC EDUCATION

16 NCAC 06C .0307	12:01 NCR 18	*
16 NCAC 06C .0310	12:01 NCR 18	*
16 NCAC 06D .0103	12:01 NCR 18	*
16 NCAC 06D .0301	12:01 NCR 18	*
16 NCAC 06D .0303	12:01 NCR 18	*
16 NCAC 06D .0305	12:01 NCR 18	*
16 NCAC 06D .0306	12:01 NCR 18	*
16 NCAC 06G .0304	12:01 NCR 18	S
16 NCAC 06G .0305	12:01 NCR 18	*
16 NCAC 06G .0306	12:01 NCR 18	*
16 NCAC 06G .0307	12:01 NCR 18	S
16 NCAC 06G .0308	12:01 NCR 18	S
16 NCAC 06G .0309	12:01 NCR 18	S
16 NCAC 06G .0401	12:01 NCR 18	*

Temp Filed over obj

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Agency/Rule Citation	Rule-making Proceedings	Temporary Rule	Notice of Text	Fiscal Note	RRC Status		Text differs from proposal	Effective by Governor	Approved Rule	Other
					Action	Date				
16 NCAC 06G .0402			12-01 NCR 18	*						
16 NCAC 06G .0403			12-01 NCR 18	*						
16 NCAC 06G .0404			12-01 NCR 18	*						
<b>REAL ESTATE COMMISSION</b>										
21 NCAC 58A .0302	10:22 NCR 2829		11-03 NCR 114	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
21 NCAC 58A .1501	10:22 NCR 2829		11-03 NCR 114	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
21 NCAC 58A .1502	10:22 NCR 2829		11-03 NCR 114	*	Object	12/19/96				
					Approve	01/16/97	*		11:22 NCR 1717	
<b>REVENUE</b>										
17 NCAC 01C .0506			11:10 NCR 838	*	Approve	01/16/97	*		11:22 NCR 1717	
Tax Review Board										
<b>SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGIST, BOARD OF EXAMINERS</b>										
21 NCAC 64 .0303	11:23 NCR 1780									12-04 NCR 228
<b>STATE PERSONNEL COMMISSION</b>										
25 NCAC 01D .2501		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2503		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2504		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2505		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2507		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2508		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2509		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2511		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2513		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2514		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01D .2516		11:13 NCR 1062	11:19 NCR 1429	*						
25 NCAC 01E .0705	11:14 NCR 1110		11:19 NCR 1434	*						
25 NCAC 01E .0707	11:14 NCR 1110		11:19 NCR 1434	*						
25 NCAC 01E .0709	11:14 NCR 1110		11:19 NCR 1434	*						
<b>TRANSPORTATION</b>										

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					Action	Date				
Highways, Division of										
19A NCAC 02B .0164	11:20 NCR 1537		11:26 NCR 1991	*	Object	07/17/97				
19A NCAC 02B .0242	11:26 NCR 1986		12:03 NCR 207	*						
19A NCAC 02B .0303	11:26 NCR 1986		12:03 NCR 207	*						
19A NCAC 02D .0415	11:20 NCR 1537		11:26 NCR 2004	*	Approve	07/17/97			12:04 NCR 317	
Motor Vehicles, Division of										
19A NCAC 031 .0100	11:19 NCR 1413									
19A NCAC 031 .0200	11:19 NCR 1413									
19A NCAC 031 .0300	11:19 NCR 1413									
19A NCAC 031 .0400	11:19 NCR 1413									
19A NCAC 031 .0500	11:19 NCR 1413									
19A NCAC 031 .0600	11:19 NCR 1413									
19A NCAC 031 .0700	11:19 NCR 1413									
19A NCAC 031 .0800	11:19 NCR 1413									
19A NCAC 03J .0102	11:11 NCR 882		11:17 NCR 1340	*	Approve	02/20/97	*		11:24 NCR 1832	
19A NCAC 03J .0306	11:11 NCR 882		11:17 NCR 1340	*	Object	02/20/97	*			
19A NCAC 03J .0308	11:11 NCR 882		11:17 NCR 1340	*	Approve	03/20/97	*		11:26 NCR 2004	
19A NCAC 03J .0601	11:11 NCR 882		11:17 NCR 1340	*	Approve	03/20/97	*		11:26 NCR 2004	
				*	Approve	02/20/97	*		11:24 NCR 1832	



# BARCLAYS OFFICIAL NORTH CAROLINA ADMINISTRATIVE CODE - 1997

DESCRIPTION	CODE	ANNUAL SUBSCRIPTION PRICE
<b>Title 1 - Dept. of Administration - Complete Title</b>	<b>201 00 001</b>	<b>\$90.00</b>
Division of Purchase & Contract	201 10 051	\$30.00
Federal Block Grant Funds	201 10 331	\$25.00
<b>Title 2 - Dept. of Agriculture - Complete Title</b>	<b>202 00 001</b>	<b>\$140.00</b>
Food & Drug Protection Division	202 15 091	\$35.00
Structural Pest Control Committee	202 15 341	\$30.00
Agricultural Markets	202 15 431	\$30.00
Plant Industry	202 15 481	\$30.00
Animal Industry	202 15 521	\$30.00
<b>Title 3 - Dept. of State Auditor - Complete Title</b>	<b>203 00 001</b>	<b>\$25.00</b>
<b>Title 4 - Dept. of Commerce - Complete Title</b>	<b>204 00 001</b>	<b>\$125.00</b>
Alcoholic Beverage Control Commission	204 15 021	\$45.00
Banking Commission	204 15 031	\$45.00
Credit Union Division	204 15 061	\$25.00
Savings & Loan Division	204 15 091	\$25.00
Industrial Commission/Workers Compensation	204 15 101	\$30.00
Savings Institutions Division	204 15 161	\$35.00
<b>Title 5 - Dept. of Corrections - Complete Title</b>	<b>205 00 001</b>	<b>\$70.00</b>
Division of Prisons	205 15 021	\$35.00
<b>Title 6 - Council of State - Complete Title</b>	<b>206 00 001</b>	<b>\$30.00</b>
<b>Title 7 - Dept. of Cultural Resources - Complete Title</b>	<b>207 00 001</b>	<b>\$60.00</b>
<b>Title 8 - State Board of Elections - Complete Title</b>	<b>208 00 001</b>	<b>\$30.00</b>
<b>Title 9 - Offices of the Governor &amp; Lt. Governor - Complete Title</b>	<b>209 00 001</b>	<b>\$45.00</b>
<b>Title 10 - Dept. of Human Resources - Complete Title</b>	<b>210 00 001</b>	<b>\$470.00</b>
Licensing of Health Facilities	210 20 101	\$95.00
Detention Facilities	210 20 201	\$40.00
Mental Health & Rehabilitation Services	210 20 301	\$110.00
Social Services	210 20 401	\$185.00
Children Services/Day Care	210 20 411	\$55.00
Services for the Aging	210 20 421	\$45.00
Services for the Blind	210 20 431	\$40.00
Services for the Deaf & Hard of Hearing	210 20 441	\$25.00
Employment Opportunities	210 20 451	\$45.00
<b>Title 11 - Dept. of Insurance - Complete Title</b>	<b>211 00 001</b>	<b>\$90.00</b>
Insurance	211 10 011	\$80.00
Consumer Services	211 10 041	\$30.00
Fire & Rescue Services	211 10 051	\$25.00
Agent Services	211 10 061	\$35.00
Engineering & Building Codes	211 10 081	\$30.00
<b>Title 12 - Dept. of Justice - Complete Title</b>	<b>212 00 001</b>	<b>\$90.00</b>
Private Protective Services	212 10 071	\$30.00
Police & Sheriff's Education & Training Standards	212 10 091	\$40.00
NC Alarm Systems Licensing Board	212 10 111	\$30.00
<b>Title 13 - Dept. of Labor - Complete Title</b>	<b>213 00 001</b>	<b>\$110.00</b>
Mine & Quarry Safety	213 15 061	\$25.00
General Safety/OSHA	213 20 001	\$70.00
Wage & Hour Rules	213 15 121	\$25.00
Boiler & Pressure Vessel Safety	213 15 131	\$25.00
Apprenticeship & Training	213 15 141	\$25.00
Elevator & Amusement Device Safety	213 15 151	\$25.00
<b>Title 14A - Dept. of Crime Control &amp; Public Safety - Complete Title</b>	<b>214 00 001</b>	<b>\$45.00</b>
Alcohol Law Enforcement	214 00 081	\$25.00
Victims Compensation Fund	214 00 111	\$25.00
<b>Title 15A - Dept. of Environ., Health, &amp; Nat. Resources - Complete Title</b>	<b>215 00 001</b>	<b>\$395.00</b>
Environmental Management	215 15 001	\$165.00
Air Quality	215 15 101	\$90.00
Water Quality	215 15 201	\$85.00
Land & Waste Management	215 15 301	\$85.00
Solid Waste Management	215 15 311	\$50.00

DESCRIPTION	CODE	ANNUAL SUBSCRIPTION PRICE
Underground Storage Tanks	215 15 321	\$30.00
Coastal Management, Fishing & Boating	215 15 401	\$53.00
Environmental Health	215 25 001	\$150.00
Radiation/Nuclear Waste	215 25 101	\$65.00
Sanitation	215 25 201	\$60.00
Public Health	215 25 301	\$85.00
Intoxilizer & Brethalizer	215 25 311	\$25.00
<b>Title 16 - Dept. of Public Instruction - Complete Title</b>	<b>216 00 001</b>	<b>\$60.00</b>
Elementary & Secondary Education	216 10 061	\$30.00
<b>Title 17 - Department of Revenue - Complete Title</b>	<b>217 00 001</b>	<b>\$130.00</b>
Taxes on Individuals	217 15 101	\$40.00
Taxes on Business	217 15 201	\$70.00
Sales & Use Tax Division	217 15 271	\$45.00
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